

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

Senate Engrossed
FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 66
SENATE BILL 1118

AN ACT

AMENDING SECTION 26-1015, ARIZONA REVISED STATUTES; RELATING TO THE
ARIZONA CODE OF MILITARY JUSTICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-1015, Arizona Revised Statutes, is amended to
3 read:

4 26-1015. Commanding officer; nonjudicial punishments; appeal

5 A. Under rules the governor adopts and under any additional rules
6 adopted by the adjutant general, limitations may be placed on the powers
7 granted by this chapter with respect to the kind and amount of punishment
8 authorized, the categories of commanding officers and warrant officers
9 exercising command authorized to exercise those powers, the applicability
10 of this chapter to an accused who demands trial by court-martial and the
11 kinds of courts-martial to which the case may be referred on a demand.
12 Punishment may not be imposed on any member of the national guard under
13 this chapter if the member, before the imposition of the punishment, has
14 demanded trial by court-martial in lieu of the punishment. A member of
15 the national guard may not demand a trial by court-martial in lieu of the
16 punishment if the nonjudicial punishment options do not include arrest in
17 quarters or restriction. Similar rules may be adopted with respect to the
18 suspension of authorized punishments. If authorized by rules of the
19 adjutant general, a commanding officer exercising general court-martial
20 jurisdiction or an officer of general flag rank in command may delegate
21 the officer's powers under this article to a principal assistant.

22 B. Subject to subsection A of this section, any commanding officer,
23 in addition to or in lieu of admonition or reprimand, may impose one or
24 more of the following disciplinary punishments for minor offenses without
25 the intervention of a court-martial:

26 1. On officers of ~~his~~ THE COMMANDING OFFICER'S command:

27 (a) Restriction to certain specified limits, with or without
28 suspension from duty, for not more than thirty consecutive days.

29 (b) If imposed by the governor, the adjutant general or a general
30 officer in command:

31 (i) Arrest in quarters for not more than thirty consecutive days.

32 (ii) Forfeiture ~~or a fine~~ in an amount of not more than ~~fourteen~~
33 TWENTY-EIGHT drill periods.

34 (iii) Restriction to certain specified limits, with or without
35 suspension from duty, for not more than sixty consecutive days.

36 ~~(iv) Detention of not more than one-half of one month's pay per~~
37 ~~month for three months.~~

38 2. On other personnel of ~~his~~ THE COMMANDING OFFICER'S command:

39 (a) Correctional custody for not more than seven consecutive days.

40 (b) Forfeiture ~~or fine~~ in an amount of not more than seven drill
41 periods.

42 (c) Reduction to the next inferior pay grade, if the grade from
43 which the person demoted is within the promotion authority of the officer
44 imposing the reduction or any officer subordinate to the one who imposes
45 the reduction.

1 (d) Extra duties, including fatigue or other duties, for not more
2 than fourteen consecutive days.

3 (e) Restriction to certain specified limits, with or without
4 suspension from duty, for not more than fourteen consecutive days.

5 ~~(f) Detention of not more than fourteen days' pay.~~

6 ~~(g)~~ (f) If imposed by an officer of the grade of major or above:

7 (i) Correctional custody for not more than thirty consecutive days.

8 (ii) Forfeiture ~~or fine~~ in an amount of not more than ~~fourteen~~
9 TWENTY-EIGHT drill periods.

10 (iii) Reduction to the lowest or any intermediate pay grade, but an
11 enlisted member in a pay grade above E-4 may not be reduced more than two
12 pay grades. ~~The reduction must be imposed by an officer who is delegated~~
13 ~~to perform the reduction by the adjutant general.~~ THE PAY GRADE FROM WHICH
14 THE PERSON IS DEMOTED MUST BE WITHIN THE PROMOTION AUTHORITY OF THE
15 OFFICER IMPOSING THE REDUCTION OR ANY OFFICER SUBORDINATE TO THE OFFICER
16 WHO IMPOSES THE REDUCTION.

17 (iv) Extra duties, including fatigue or other duties, for not more
18 than forty-five consecutive days.

19 (v) Restriction to certain specified limits, with or without
20 suspension from duty, for not more than sixty consecutive days.

21 ~~(vi) Detention of not more than one-half of one month's pay per~~
22 ~~month for three months.~~

23 C. ~~Detention of pay shall be for a stated period of not more than~~
24 ~~one year, but if the offender's term of service expires earlier, the~~
25 ~~detention shall terminate on that expiration. No Two or more of the~~
26 ~~punishments of arrest in quarters, correctional custody, extra duties or~~
27 ~~restriction may NOT be combined to run consecutively in the maximum amount~~
28 ~~that may be imposed for each. If any of those punishments are combined to~~
29 ~~run consecutively, there shall be an apportionment. In addition,~~
30 ~~forfeiture of pay shall not be combined with detention of pay without an~~
31 ~~apportionment.~~ For the purpose of this subsection, "correctional custody"
32 means the physical restraint of a person during duty or nonduty hours and
33 may include extra duties, fatigue duties or hard labor. If practicable,
34 correctional custody shall not be served in immediate association with
35 persons awaiting trial or held in confinement pursuant to trial by
36 court-martial.

37 D. An officer in charge may impose on enlisted members assigned to
38 the unit of which the officer is in charge punishments authorized under
39 subsection B, paragraph 2 of this section as the governor specifically
40 prescribes by rule.

41 E. The officer who imposes a punishment authorized in subsection B
42 of this section or the officer's successor in command may suspend
43 probationally, at any time, any part or amount of the unexecuted
44 punishment imposed and may suspend probationally a reduction in grade or a
45 forfeiture imposed under subsection B of this section, whether or not the

1 punishment is executed. In addition, the officer may remit or mitigate,
2 at any time, any part or amount of the unexecuted punishment imposed and
3 may set aside in whole or in part the punishment, whether executed or
4 unexecuted, and restore all rights, privileges and property affected. The
5 officer may also mitigate reduction in grade to forfeiture ~~or detention~~ of
6 pay. If mitigating an arrest in quarters to restriction, a correctional
7 custody to extra duties or restriction, or both, or extra duties to
8 restriction, the mitigated punishment shall not be for a greater period
9 than the punishment mitigated. ~~If mitigating forfeiture of pay to~~
10 ~~detention of pay, the amount of the detention shall not be greater than~~
11 ~~the amount of the forfeiture.~~ If mitigating reduction in grade to
12 forfeiture ~~or detention~~ of pay, the amount of the forfeiture ~~or detention~~
13 shall not be greater than the amount that could have been imposed
14 initially under this article by the officer who imposed the punishment
15 mitigated.

16 F. A person who is punished under this article and who considers
17 the punishment unjust or disproportionate to the offense may appeal,
18 through the proper channel, to the next superior authority. The appeal
19 shall be promptly forwarded and decided, but the person punished may be
20 required in the meantime to undergo the punishment adjudged. The superior
21 authority may exercise the same powers with respect to the punishment
22 imposed as may be exercised under subsection E of this section by the
23 officer who imposed the punishment. Before acting on an appeal from a
24 punishment of arrest in quarters for more than seven days, correctional
25 custody for more than seven days, forfeiture of more than seven days' pay,
26 reduction of one or more pay grades from the fourth or a higher grade,
27 extra duties for more than fourteen days, ~~OR restriction for more than~~
28 ~~fourteen days or detention of more than fourteen days' pay,~~ the authority
29 who is to act on the appeal shall refer the case to a judge advocate for
30 consideration and advice and may so refer the case on appeal from any
31 punishment imposed under subsection B of this section.

32 G. The imposition and enforcement of disciplinary punishment under
33 this section for any act or omission is not a bar to trial by
34 court-martial for a serious crime or offense growing out of the same act
35 or omission, and not properly punishable under this section. The fact
36 that a disciplinary punishment has been enforced may be shown by the
37 accused at trial, and if shown shall be considered in determining the
38 measure of punishment to be adjudged if there is a finding of guilty.

39 H. The adjutant general, by rule, may prescribe the form of records
40 to be kept of proceedings under this section and may also prescribe that
41 certain categories of those proceedings shall be in writing.

APPROVED BY THE GOVERNOR MARCH 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2017.

Passed the House March 20, 2017,

Passed the Senate February 2, 2017,

by the following vote: 57 Ayes,

by the following vote: 30 Ayes,

0 Nays, 3 Not Voting

9 Nays, 0 Not Voting

Th. R. Byrd
Speaker of the House
Pro Tempore
Jim Drake
Chief Clerk of the House

Stan B. Yoder
President of the Senate
Susanne Owens
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21st day of March, 2017,

at 1:50 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 24th day of

March, 2017,

at 2:41 o'clock P. M.

George F. Dujean
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of March, 2017,

at 5:05 o'clock P M.

Michelle Reagan
Secretary of State

S.B. 1118