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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 8, 2024
Subject: Bill Brief for HB 2392

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

New 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.

New 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.

New Section 4 address prohibited sexual activity, including conduct with a specially protected junior member of the armed forces, and New Section 5 addresses the offense of sexual harassment.

New Sections 6 and 7 address the conduct required of a sentinel or lookout and the conduct required of any person subject to this code in their interaction with a sentinel or lookout.

New Section 8 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person willfully commits an act related to public records.

New Section 9 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person intentionally commits an act related to false writings.

New Section 10 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person willfully impersonates: (1) An officer, noncommissioned officer or petty officer; (2) an agent of superior authority of one of the armed forces or state military forces; or (3) a government official.

New Section 11 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person commits an act related to unauthorized use of insignias.

New Section 12 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person wrongfully commits an act related to mail.

New Section 13 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person leaves the scene of a car accident without providing assistance or personal identification.

New Section 14 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person willfully and wrongfully discharges or brandishes a firearm under any circumstances that endanger a human life or causes a reasonable person to be apprehensive of the potential endangerment of human life.

New Sections 15 and 16 address the crimes of simple assault, commits a violent offense against a spouse, intimate partner or immediate family member of such person, and violating a protection order.

New Section 17 provides that any person subject to this code shall be punished at the direction of a commanding officer if such person communicates a threat to injure the person, property or reputation of another or maliciously communicates a false threat concerning the person or property of another by use of an explosive, a weapon of mass destruction, a biological or chemical agent or a hazardous material.

New 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.

New 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.

New Sections 20, 21, 22, 23, and 24 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.

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

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

New 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.

New 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.

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New 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.

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

New 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.

New Section 34 states that any person subject to this code shall be punished at the direction of a commanding officer if such person willfully disobeys a lawful command of such person's superior commissioned officer.

Sections 35 through 101 of the bill amend and update statutes in Chapter 48 of the Kansas Statutes Annotated to comply with the UCMJ and modern drafting practices.

As indicated in the bill title and in Section 101 (102), the bill also repeals K.S.A. 48-2104, 48-2202, 48-2205, 48-2206, 48-2207, 48-2208, 48-2401, 48-2401a, 48-2402, 48-2402a, 48-2403, 48-2404, 48-2405, 48-2406, 48-2501, 48-2501a, 48-2502, 48-2503, 48-2504, 48-2505, 48-2506, 48-2507, 48-2601, 48-2603, 48-2604, 48-2606, 48-2701, 48-2702, 48-2703, 48-2704, 48-2705, 48-2706, 48-2707, 48-2710, 48-2711, 48-2712, 48-2713, 48-2714, 48-2715, 48-2716, 48-2717, 48-2718, 48-2719, 48-2803, 48-2804, 48-2915, 48-2916, 48-2917, 48-2918, 48-2919, 48-2920, 48-2921, 48-2922, 48-2923, 48-2924, 48-2925, 48-2926, 48-2927, 48-2928, 48-2929, 48-2930, 48-2931, 48-2932, 48-3001, 48-3106, 48-3107 and 48-3114.

The bill would take effect from and after publication in the statute book, July 1, 2024.