

SENATE BILL No. 290

By Committee on Ways and Means

3-17

1 AN ACT concerning the Kansas code of military justice; relating to
2 commanding officer's nonjudicial punishment; amending K.S.A. 48-
3 2301 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 48-2301 is hereby amended to read as follows: 48-
7 2301. ~~(a) Under such regulations as the governor may prescribe, any~~
8 ~~commanding officer may, in addition to or in lieu of admonition or~~
9 ~~reprimand, impose one of the following disciplinary punishments for~~
10 ~~minor offenses without the intervention of a court-martial:~~

11 ~~(1) Upon an officer of the commanding officer's command:~~

12 ~~(A) Withholding of privileges for not more than two consecutive~~
13 ~~weeks;~~

14 ~~(B) restriction to certain specified limits, with or without suspension~~
15 ~~from duty, for not more than two consecutive weeks; or~~

16 ~~(C) if imposed by the governor, the adjutant general, or the~~
17 ~~commanding general of a brigade, or the commanding officer of a separate~~
18 ~~group or battalion, a fine or forfeiture of pay and allowances of not more~~
19 ~~than \$125;~~

20 ~~(2) upon other military personnel of the commanding officer's~~
21 ~~command:~~

22 ~~(A) Withholding of privileges for not more than two consecutive~~
23 ~~weeks;~~

24 ~~(B) restriction to certain specified limits, with or without suspension~~
25 ~~from duty, for not more than two consecutive weeks;~~

26 ~~(C) extra duties for not more than 14 days, which need not be~~
27 ~~consecutive, and for not more than two hours per day, holidays included;~~

28 ~~(D) reduction to next inferior grade if the grade from which demoted~~
29 ~~is within the promotion authority of the officer imposing the reduction of~~
30 ~~any officer subordinate to the one who imposes the reduction;~~

31 ~~(E) if imposed by an officer of the grade of major or above: (i) The~~
32 ~~punishment authorized pursuant to subsection (a)(2)(A) through (a)(2)(D)~~
33 ~~above; or (ii) a fine or forfeiture of pay of not more than \$50.~~

34 ~~(b) The governor may, by regulation, place limitations on the powers~~
35 ~~granted by this section with respect to the kind and amount of punishment~~
36 ~~authorized and the categories of commanding officers authorized to~~

1 exercise those powers.

2 (e) ~~An officer in charge may impose on enlisted members assigned to~~
3 ~~the unit or element of which the officer is in charge the punishments~~
4 ~~authorized pursuant to subsections (a)(2)(A) through (a)(2)(D).~~

5 (d) ~~The officer who imposes the punishment authorized in subsection~~
6 ~~(b), or such officer's successor in command, may at any time suspend~~
7 ~~probationally any part or amount of the unexecuted punishment imposed~~
8 ~~and may suspend probationally a reduction in grade or a forfeiture~~
9 ~~imposed under subsection (b), whether or not executed. In addition such~~
10 ~~officer may at any time remit or mitigate any part or amount of the~~
11 ~~unexecuted punishment imposed and may set aside in whole or in part the~~
12 ~~punishment, whether executed or unexecuted, and restore all rights,~~
13 ~~privileges and property affected. Such officer may also mitigate reduction~~
14 ~~in grade to a fine or forfeiture of pay. When mitigating extra duties to~~
15 ~~restriction the mitigated punishment shall not be for a greater period than~~
16 ~~the punishment mitigated. When mitigating reduction in grade to fine or~~
17 ~~forfeiture of pay, the amount of the fine or forfeiture shall not be greater~~
18 ~~than the amount that could have been imposed initially under this article~~
19 ~~by the officer who imposed the punishment mitigated.~~

20 (e) ~~Except where punishment has been imposed by the governor, a~~
21 ~~person punished under this section who considers his or her punishment~~
22 ~~unjust or disproportionate to the offense may, through the proper channel,~~
23 ~~appeal to the next superior authority. The appeal shall be promptly~~
24 ~~forwarded and decided, but the person punished may in the meantime be~~
25 ~~required to undergo the punishment adjudged. The superior authority may~~
26 ~~exercise the same powers with respect to the punishment imposed as may~~
27 ~~be exercised under subsection (d) by the officer who imposes the~~
28 ~~punishment.~~

29 (f) ~~The imposition and enforcement of disciplinary punishment under~~
30 ~~this section for any act or omission is not a bar to trial by court-martial for~~
31 ~~a serious crime or offense growing out of the same act or omission, and~~
32 ~~not properly punishable under this section; but the fact that a disciplinary~~
33 ~~punishment has been enforced may be shown by the accused upon trial,~~
34 ~~and when so shown shall be considered in determining the measure of~~
35 ~~punishment to be adjudged in the event of a finding of guilty.~~

36 (g) ~~Whenever a punishment of forfeiture of pay is imposed under this~~
37 ~~section, the forfeiture may apply to pay accruing on or after the date that~~
38 ~~punishment is imposed and to any pay accrued before that date.~~

39 (h) ~~Any punishment authorized by this section which is measured in~~
40 ~~terms of days shall, when served in a status other than annual field~~
41 ~~training, be construed to mean regularly scheduled inactive duty training~~
42 ~~days.~~

43 (i) ~~Prior to being informed of the disciplinary action to be taken under~~

1 ~~this section, the person to be punished shall have the right to demand a~~
2 ~~trial by court-martial for the offense. Punishment may not be imposed~~
3 ~~upon any member of the state military force under this section if the~~
4 ~~member has, before the imposition of such punishment, demanded trial by~~
5 ~~court-martial in lieu of such punishment.~~

6 (a) (1) *Under such regulations as the governor may prescribe, any*
7 *commanding officer may impose disciplinary punishments for minor*
8 *offenses without the intervention of a court-martial pursuant to this*
9 *article. For purposes of this article, commanding officer shall include*
10 *officers-in-charge.*

11 (2) *The governor, the adjutant general or an officer of a general or*
12 *flag rank in command may delegate the powers under this article to a*
13 *principal assistant who is a member of the state military forces.*

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

16 (1) *An admonition;*

17 (2) *a reprimand;*

18 (3) *the withholding of privileges for not more than six months, which*
19 *need not be consecutive;*

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

21 (5) *a fine of not more than seven days' pay;*

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

25 (7) *extra duties, including fatigue or other duties, for not more than*
26 *14 days, which need not be consecutive; and*

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

29 (c) *Any commanding officer of the grade of major (O-4), or above,*
30 *may impose upon enlisted members of the officer's command:*

31 (1) *Any punishment authorized in subsections (b)(1), (2) and (3);*

32 (2) *the forfeiture of not more than 1/2 of one month's pay per month*
33 *for two months;*

34 (3) *a fine of not more than one month's pay;*

35 (4) *a reduction to the lowest or any intermediate pay grade, if the*
36 *grade from which demoted is within the promotion authority of the officer*
37 *imposing the reduction or any officer subordinate to the one who imposes*
38 *the reduction, but an enlisted member in a pay grade above*
39 *specialist/corporal (E-4) may not be reduced more than two pay grades;*

40 (5) *extra duties, including fatigue or other duties, for not more than*
41 *45 days, which need not be consecutive; and*

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

1 (d) *The governor, the adjutant general, an officer exercising general*
2 *court-martial convening authority or an officer of a general or flag rank*
3 *in command may impose:*

4 (1) *Upon officers of the officer's command, any punishment*
5 *authorized in subsections (c)(1), (2), (3) and (6) and arrest in quarters for*
6 *not more than 30 days, which need not be consecutive; and*

7 (2) *upon enlisted members of the officer's command, any punishment*
8 *authorized in subsection (c).*

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

15 (f) *Prior to the offer of non-judicial punishment, the commanding*
16 *officer shall determine whether arrest in quarters or restriction shall be*
17 *considered as punishments. If the commanding officer determines that the*
18 *punishment options may include arrest in quarters or restriction, the*
19 *accused shall be notified of the right to demand trial by court-martial. If*
20 *the commanding officer determines that the punishment options will not*
21 *include arrest in quarters or restriction, the accused shall be notified that*
22 *there is no right to trial by court-martial in lieu of non-judicial*
23 *punishment.*

24 (g) *The officer who imposes the punishment, or the successor in*
25 *command, may, at any time, suspend, set aside, mitigate or remit any part*
26 *or amount of the punishment and restore all rights, privileges and property*
27 *affected. The officer also may mitigate punishments as follows: (1)*
28 *Reduction in grade to forfeiture of pay; (2) arrest in quarters to*
29 *restriction; or (3) extra duties to restriction. The mitigated punishment*
30 *shall not be for a greater period than the punishment mitigated. When*
31 *mitigating reduction in grade to forfeiture of pay, the amount of the*
32 *forfeiture shall not be greater than the amount that could have been*
33 *imposed initially under this article by the officer who imposed the*
34 *punishment mitigated.*

35 (h) *A person punished under this article who considers the*
36 *punishment unjust or disproportionate to the offense may, through the*
37 *proper channel, appeal to the next superior authority within 15 days after*
38 *the punishment is either announced or sent to the accused, as the*
39 *commander may determine. The appeal shall be promptly forwarded and*
40 *decided, but the punishment shall be stayed until final action is taken on*
41 *the appeal. The superior authority may exercise the same powers with*
42 *respect to the punishment imposed as may be exercised under subsection*
43 *(g) by the officer who imposed the punishment. Before acting on an appeal*

1 *from a punishment, the authority that is to act on the appeal will refer the*
2 *case to a judge advocate for consideration and advice.*

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

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

14 *(k) Regulations may prescribe the form of records to be kept of*
15 *proceedings under this article and may prescribe that certain categories of*
16 *those proceedings shall be in writing.*

17 Sec. 2. K.S.A. 48-2301 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.