



January 25, 2023

SENATE BILL No. 279

DIGEST OF SB 279 (Updated January 24, 2023 11:31 am - DI 140)

Citations Affected: IC 10-16.

Synopsis: Indiana national guard matters. Provides that a court-martial of a member of the Indiana national guard may be convened by orders of the governor or the adjutant general. (Current law provides that a court-martial of a member of the Indiana national guard may be convened by orders of the governor.) Provides that a member of the Indiana national guard may not demand trial by court-martial in lieu of nonjudicial punishment. Removes a provision permitting a commanding officer to order a member of the officer's command to be confined under correctional custody for not more than eight days. Makes changes to the disciplinary punishment an officer exercising command may impose.

Effective: July 1, 2023.

Freeman

January 11, 2023, read first time and referred to Committee on Veterans Affairs and The Military.
January 24, 2023, reported favorably — Do Pass.

SB 279—LS 7026/DI 116



January 25, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 279

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-16-9-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The military
3 courts of Indiana shall be organized as follows:
4 (1) General court-martial.
5 (2) Special court-martial.
6 (3) Summary court-martial.
7 (b) The courts shall be constituted, have cognizance of the same
8 subject, and possess like powers, except as to punishments, as similar
9 courts provided for by the laws and regulations governing the armed
10 forces of the United States. The proceedings of the courts-martial must
11 follow the forms and modes of procedure prescribed for the courts
12 governing the armed forces of the United States and as approved by the
13 adjutant general.
14 (c) A general court-martial may be convened by orders of the
15 governor **or the adjutant general** and may try a person subject to
16 military law. The general court-martial may impose fines of not more
17 than two hundred dollars (\$200) and sentence a person to:

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- 1 (1) a forfeit of pay and allowances;
- 2 (2) a reprimand;
- 3 (3) dismissal or dishonorable discharge from the services;
- 4 (4) reduction of noncommissioned officers to the ranks; or
- 5 (5) any combination of two (2) or more of the punishments
- 6 described in subdivisions (1) through (4).

7 (d) The adjutant general or the commanding officer of each camp or
8 other place, division, regiment, separate battalion, air squadron, group,
9 or other detached command may appoint a special court-martial for that
10 command. However, a special court-martial may be appointed by
11 superior authority if the superior authority considers it desirable. The
12 special court-martial:

- 13 (1) may try any person subject to military law, except a
- 14 commissioned officer, for any crime or offense made punishable
- 15 by the military laws of the United States or the state; and
- 16 (2) has the same powers of punishment as does a general
- 17 court-martial, except that fines imposed by the courts may not
- 18 exceed one hundred dollars (\$100).

19 (e) The adjutant general or the commanding officer of each camp or
20 other place, division, regiment, battalion, company, air squadron,
21 group, or other detachment of the national guard may appoint for the
22 place or command a summary court to consist of one (1) officer, who
23 may administer oaths and try the enlisted persons of the place or
24 command for breaches of discipline and violations of laws when
25 governing the organizations. The court, when satisfied of the guilt of
26 the soldier, may:

- 27 (1) impose fines of not more than twenty-five dollars (\$25) for
- 28 any offense;
- 29 (2) sentence noncommissioned officers to reduction in rank; and
- 30 (3) sentence to forfeiture of pay and allowances.

31 The proceedings of the court must be informal and the minutes must be
32 the same as prescribed for summary courts of the armed forces of the
33 United States.

34 (f) All courts-martial of the Indiana national guard, including
35 summary courts, may sentence to confinement instead of imposing an
36 authorized fine if the sentence of confinement does not exceed one (1)
37 day for each one dollar (\$1) of fine authorized.

38 (g) A sentence of dismissal from the service or dishonorable
39 discharge imposed by a national guard court-martial may not be
40 executed until approved by the governor.

41 (h) A conviction by court-martial that has been approved by the
42 convening authority under this article may be appealed to a military



1 court of appellate review. The military court of appellate review must
 2 consist of three (3) Indiana national guard judge advocates appointed
 3 to the military court of appellate review by the adjutant general.

4 (i) Presidents of courts-martial and summary courts officers may do
 5 the following:

6 (1) Issue warrants to arrest an accused person and to bring the
 7 person before the court for trial if the person has disobeyed an
 8 order in writing from the convening authority to appear before the
 9 court. A copy of the charge must be delivered to the accused with
 10 the order.

11 (2) Issue subpoenas duces tecum.

12 (3) Enforce by attachment attendance of witnesses and the
 13 production of books and papers.

14 (4) Sentence for a refusal to be sworn or to answer as provided in
 15 action before civil courts.

16 (j) All processes of a court-martial, when it is impracticable to be
 17 executed by the military forces of the state, shall be:

18 (1) brought in the name of the state; and

19 (2) executed by the civil officers designated by the president of
 20 the court-martial or summary court officer issuing the process.

21 The designated civil officer shall execute all processes and return the
 22 processes to the officer who issued the processes. The civil officer shall
 23 be paid the fees and allowances provided for like processes in civil
 24 actions of the state. The fees shall be charged in case of conviction of
 25 the accused as a part of the penalty of the offense of which the accused
 26 may be convicted whether the punishment for the offense is
 27 imprisonment or a fine, or both. The payment of the costs in addition
 28 to the payment of the fine imposed shall be enforced by imprisonment
 29 until the payment is satisfied, at a rate of one dollar (\$1) per day of the
 30 costs or fine, or both.

31 SECTION 2. IC 10-16-9-6 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) The commanding
 33 officer of any detachment, company, or other unit or organization may
 34 impose disciplinary punishment upon any enlisted member of the
 35 officer's command.

36 (b) An officer exercising command normally exercised by a general
 37 officer may impose disciplinary punishment upon any warrant or
 38 commissioned officer of the exercising officer's command.

39 (c) A punishment imposed by authority of this section may include
 40 the following:

41 (1) Admonition.

42 (2) Reprimand.



1 (3) Withholding privileges for up to seven (7) twenty-four (24)
2 hour duty days.

3 (4) Restriction to specific area limits for up to seven (7)
4 twenty-four (24) hour duty days.

5 (5) Imposition of a fine of not more than two-thirds (2/3) of one
6 (1) month's pay to which the member would have been entitled
7 during the month of the offense.

8 **(6) Reduce the member's rank to the next inferior grade.**

9 ~~(d) A commanding officer may also:~~

10 ~~(1) order a member of the officer's command to be confined under~~
11 ~~correctional custody for not more than eight (8) days;~~

12 ~~(2) reduce the member's rank to the next inferior grade; or~~

13 ~~(3) order a member confined and reduce the member's rank as~~
14 ~~provided in subdivisions (1) and (2).~~

15 However, Only the commanding officer who holds promotion authority
16 over the member charged with an offense may prescribe the
17 punishment of correctional custody, a fine or reduction in rank.

18 ~~(e) (d) Fines shall be collected as directed under section 3 of this~~
19 ~~chapter.~~

20 **(e) A member of the national guard may not demand a trial by**
21 **court-martial in lieu of nonjudicial punishment or disciplinary**
22 **punishment.**

23 ~~(f) Confinement shall be carried out in compliance with sections 5~~
24 ~~and 11 of this chapter.~~

25 ~~(g) This section may not be construed to be a waiver of the right to~~
26 ~~trial by court-martial.~~

27 ~~(h) (f) A sentence may not be executed until the right of appeal has~~
28 ~~been exhausted or waived as prescribed in the uniform code of military~~
29 ~~justice.~~

30 SECTION 3. IC 10-16-9-11 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) The reviewing
32 authority shall designate:

33 (1) the jail of any county; and

34 (2) when ordered out of the state for duty, an appropriate place of
35 confinement;

36 as the place where any sentence of confinement by a military court
37 shall be executed.

38 ~~(b) With regard to punishment under section 6 of this chapter,~~
39 ~~confinement shall be at the county jail designated by the officer holding~~
40 ~~appellate jurisdiction over the case and having the advice of a staff~~
41 ~~judge advocate as to the legality of the proceedings. However, at the~~
42 ~~discretion of the officer holding appellate jurisdiction, short term~~



1 ~~confinement may be carried out in an acceptable municipal jail.~~
2 (e) (b) Unless the commanding officer who ordered the sentence
3 directs otherwise, a sentence of confinement ~~or correctional custody~~
4 shall be served on a consecutive day basis.



COMMITTEE REPORT

Madam President: The Senate Committee on Veterans Affairs and The Military, to which was referred Senate Bill No. 279, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 279 as introduced.)

TOMES, Chairperson

Committee Vote: Yeas 6, Nays 2

