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Representatives Dovilla, Landis

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A B I L L

To amend sections 124.23, 124.26, 149.01, 317.24, 1
3319.085, 3333.31, 3737.881, 3781.10, 5321.04, 2
5902.02, 5903.10, 5903.11, 5911.07, 5923.12, 3
5924.01, 5924.02, 5924.03, 5924.06, 5924.07, 4
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5924.109, 5924.111, 5924.113, 5924.115, 5924.128,	20
5924.131, 5924.132, 5924.133, and 5924.146, to	21
enact new sections 5924.21, 5924.61, 5924.62,	22
5924.64, 5924.65, 5924.66, 5924.70, 5924.71, and	23
5924.120 and sections 4743.04, 5924.501, 5924.502,	24
5924.503, 5924.504, 5924.505, 5924.506, 5924.581,	25
5924.582, 5924.67, 5924.68, 5924.69, 5924.761, and	26
5924.1121, and to repeal sections 5924.04,	27
5924.12, 5924.21, 5924.61, 5924.62, 5924.64,	28
5924.65, 5924.66, 5924.70, 5924.71, 5924.99,	29
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5924.120, 5924.122, 5924.1231, 5924.124, 5924.125,	32
5924.126, 5924.129, 5924.130, 5924.145, and	33
5924.147 of the Revised Code to change the law	34
regarding a County Recorder's release of a	35
veteran's record of discharge, to modify the	36
duties of the Director of Veterans Services with	37
respect to publishing information about Veterans	38
Services offices, to modify the composition of the	39
Veterans Advisory Committee, to grant in-state	40
tuition for nonresident spouses and dependents of	41
veterans who served on active duty and are	42

deceased, to allow extra credit to military 43
veterans and reserve component members on state 44
civil service examinations, to provide for the 45
reemployment of nonteaching school employees 46
following military service in accordance with 47
federal law, to extend the period of time within 48
which persons serving in the Ohio National Guard 49
may meet continuing education requirements for 50
occupational licenses and renew their licenses, to 51
require that workers' compensation claims of 52
members of the organized militia be determined in 53
accordance with applicable line of duty 54
regulations, to require landlords to observe the 55
rights of tenants who are service members under 56
federal law, to modify the order of priority in 57
which veterans may participate in job training 58
programs, to permit but not require the use of 59
armories by patriotic and national organizations, 60
to update references in the Revised Code to 61
federal statutes relating to the National Guard, 62
to conform the Ohio Code of Military Justice to 63
the United States Code of Military Justice, and to 64
make other changes to the Ohio Code of Military 65
Justice. 66

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 124.23, 124.26, 149.01, 317.24, 67
3319.085, 3333.31, 3737.881, 3781.10, 5321.04, 5902.02, 5903.10, 68
5903.11, 5911.07, 5923.12, 5924.01, 5924.02, 5924.03, 5924.06, 69
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5924.78, 5924.82, 5924.83, 5924.84, 5924.85, 5924.86, 5924.87, 78
5924.88, 5924.89, 5924.90, 5924.91, 5924.92, 5924.93, 5924.94, 79
5924.95, 5924.96, 5924.97, 5924.98, 5924.103, 5924.108, 5924.109, 80
5924.111, 5924.113, 5924.115, 5924.128, 5924.131, 5924.132, 81
5924.133, and 5924.146 be amended and new sections 5924.21, 82
5924.61, 5924.62, 5924.64, 5924.65, 5924.66, 5924.70, 5924.71, and 83
5924.120 and sections 4743.04, 5924.501, 5924.502, 5924.503, 84
5924.504, 5924.505, 5924.506, 5924.581, 5924.582, 5924.67, 85
5924.68, 5924.69, 5924.761, and 5924.1121 of the Revised Code be 86
enacted to read as follows: 87

Sec. 124.23. (A) All applicants for positions and places in 88
the classified service shall be subject to examination, except for 89
applicants for positions as professional or certified service and 90
paraprofessional employees of county boards of developmental 91
disabilities, who shall be hired in the manner provided in section 92
124.241 of the Revised Code. 93

(B) Any examination administered under this section shall be 94
public and be open to all citizens of the United States and those 95
persons who have legally declared their intentions of becoming 96
United States citizens. For examinations administered for 97
positions in the service of the state, the director of 98
administrative services or the director's designee may determine 99
certain limitations as to citizenship, age, experience, education, 100
health, habit, and moral character. 101

(C) (1) Any person who has completed service in the uniformed 102
services, who has been honorably discharged from the uniformed 103

services or transferred to the reserve with evidence of 104
satisfactory service, and who is a resident of this state and any 105
member of ~~the national guard~~ or a reserve component of the armed 106
forces of the United States, including the Ohio national guard, 107
who has completed more than one hundred eighty days of active duty 108
service pursuant to an executive order of the president of the 109
United States or an act of the congress of the United States may 110
file with the director a certificate of service or honorable 111
discharge, and, upon this filing, the person shall receive 112
additional credit of twenty per cent of the person's total grade 113
given in the examination in which the person receives a passing 114
grade. A person who receives an additional credit under division 115
(C)(1) of this section shall not receive an additional credit 116
under division (C)(2) of this section. 117

(2) A member in good standing of a reserve component of the 118
armed forces of the United States, including the Ohio national 119
guard, who successfully completes the member's initial entry-level 120
training shall receive a credit of fifteen per cent of the 121
person's total grade given in the examination in which the person 122
receives a passing grade. 123

(3) As used in this division, "service in the uniformed 124
services" and "uniformed services" have the same meanings as in 125
the "Uniformed Services Employment and Reemployment Rights Act of 126
1994," 108 Stat. 3149, 38 U.S.C.A. 4303. 127

(D) An examination may include an evaluation of such factors 128
as education, training, capacity, knowledge, manual dexterity, and 129
physical or psychological fitness. An examination shall consist of 130
one or more tests in any combination. Tests may be written, oral, 131
physical, demonstration of skill, or an evaluation of training and 132
experiences and shall be designed to fairly test the relative 133
capacity of the persons examined to discharge the particular 134
duties of the position for which appointment is sought. Tests may 135

include structured interviews, assessment centers, work 136
simulations, examinations of knowledge, skills, and abilities, and 137
any other acceptable testing methods. If minimum or maximum 138
requirements are established for any examination, they shall be 139
specified in the examination announcement. 140

(E) Except as otherwise provided in sections 124.01 to 124.64 141
of the Revised Code, when a position in the classified service of 142
the state is to be filled, an examination shall be administered. 143
The director of administrative services shall have control of all 144
examinations administered for positions in the service of the 145
state and all other examinations the director administers as 146
provided in section 124.07 of the Revised Code, except as 147
otherwise provided in sections 124.01 to 124.64 of the Revised 148
Code. The director shall, by rule adopted under Chapter 119. of 149
the Revised Code, prescribe the notification method that is to be 150
used by an appointing authority to notify the director that a 151
position in the classified service of the state is to be filled. 152
In addition to the positions described in section 124.30 of the 153
Revised Code, the director may, with sufficient justification from 154
the appointing authority, allow the appointing authority to fill 155
the position by noncompetitive examination. The director shall 156
establish, by rule adopted under Chapter 119. of the Revised Code, 157
standards that the director shall use to determine what serves as 158
sufficient justification from an appointing authority to fill a 159
position by noncompetitive examination. 160

(F) No questions in any examination shall relate to political 161
or religious opinions or affiliations. No credit for seniority, 162
efficiency, or any other reason shall be added to an applicant's 163
examination grade unless the applicant achieves at least the 164
minimum passing grade on the examination without counting that 165
extra credit. 166

(G) Except as otherwise provided in sections 124.01 to 124.64 167

of the Revised Code, the director of administrative services or 168
the director's designee shall give reasonable notice of the time, 169
place, and general scope of every competitive examination for 170
appointment that the director or the director's designee 171
administers for positions in the classified service of the state. 172
The director or the director's designee shall post notices via 173
electronic media of every examination to be conducted for 174
positions in the classified civil service of the state. The 175
electronic notice shall be posted on the director's internet site 176
on the world wide web for a minimum of one week preceding any 177
examination involved. 178

Sec. 124.26. From the returns of the examinations, the 179
director of administrative services or the director's designee 180
shall prepare an eligible list of the persons whose general 181
average standing upon examinations for the class or position is 182
not less than the minimum fixed by the rules of the director, and 183
who are otherwise eligible. Those persons shall take rank upon the 184
eligible list as candidates in the order of their relative 185
excellence as determined by the examination without reference to 186
priority of the time of examination. If two or more applicants 187
receive the same mark in an open competitive examination, priority 188
in the time of filing the application with the director or the 189
director's designee shall determine the order in which their names 190
shall be placed on the eligible list, except that applicants 191
eligible for the veteran's or the reserve component member's 192
preference under section 124.23 of the Revised Code shall receive 193
priority in rank on the eligible list over nonveterans and 194
nonmembers of the reserve component on the list with a rating 195
equal to that of the veteran or reserve component member. Ties 196
among veterans or among reserve component members shall be decided 197
by priority of filing the application. A tie between a veteran and 198
a reserve component member shall be decided in favor of the 199

veteran. 200

 - An eligible list expires upon the filling or closing of the 201
position. An expired eligible list may be used to fill a position 202
of the same classification within the same appointing authority 203
for which the list was created. But, in no event shall an expired 204
list be used more than one year past its expiration date. 205

Sec. 149.01. Each elective state officer, the adjutant 206
general, the adult parole authority, the department of 207
agriculture, the director of administrative services, the public 208
utilities commission, the superintendent of insurance, the 209
superintendent of financial institutions, the superintendent of 210
purchases and printing, ~~the state commissioner of soldiers'~~ 211
~~claims,~~ the fire marshal, the industrial commission, the 212
administrator of workers' compensation, the state department of 213
transportation, the department of health, the state medical board, 214
the state dental board, the board of embalmers and funeral 215
directors, the Ohio commission for the blind, the accountancy 216
board of Ohio, the state council of uniform state laws, the board 217
of commissioners of the sinking fund, the department of taxation, 218
the board of tax appeals, the division of liquor control, the 219
director of state armories, the trustees of the Ohio state 220
university, and every private or quasi-public institution, 221
association, board, or corporation receiving state money for its 222
use and purpose shall make annually, at the end of each fiscal 223
year, in quadruplicate, a report of the transactions and 224
proceedings of that office or department for that fiscal year, 225
excepting receipts and disbursements unless otherwise specifically 226
required by law. The report shall contain a summary of the 227
official acts of the officer, board, council, commission, 228
institution, association, or corporation and any suggestions and 229
recommendations that are proper. On the first day of August of 230
each year, one of the reports shall be filed with the governor, 231

one with the secretary of state, and one with the state library, 232
and one shall be kept on file in the office of the officer, board, 233
council, commission, institution, association, or corporation. 234

Sec. 317.24. (A) As used in this section: 235

(1) "Authorized party" means any of the following: 236

(a) The person who is the subject of the record of discharge; 237

(b) A county veterans service officer, ~~or an~~ who is certified 238
by the department of veterans services; 239

(c) An attorney-in-fact, agent, or other representative of 240
the person who is the subject of the record of discharge, if 241
authorized to inspect or copy the record of discharge by that 242
person in a power of attorney or other document; 243

~~(e)~~(d) A person authorized, for good cause shown, by a court 244
of record to inspect or copy the record of discharge; 245

~~(d)~~(e) If the person who is the subject of the record of 246
discharge is deceased, the executor or administrator, or an heir, 247
legatee, or devisee, of the person's estate or a funeral director 248
who is to perform the funeral for the deceased person. 249

(2) "Separation code" or "separation program number" means 250
the coded number or numbers used to specify the reasons for a 251
person's separation from active duty, as contained in one of the 252
following: 253

(a) Regarding a separation code, as contained in line 23 or 254
26 of a veteran's discharge paper, United States department of 255
defense form DD-214; 256

(b) Regarding a separation program number, as contained in 257
line 9(c) or line 11(c) of a veteran's discharge paper, under 258
prior versions of United States department of defense form DD-214. 259

(3) "Service-related document" means any United States 260

department of defense form DD-215 or DD-220, or any National Guard Bureau form NGB-22 or NGB-22A.

(B)(1) Upon request of any discharged member of the armed forces of the United States and presentation of the member's discharge, the county recorder shall record the discharge in a book to be furnished by the board of county commissioners for that purpose. There shall be no fee for the recording. The record of discharge, or a certified copy of the record, shall be received in evidence in all cases where the original discharge would be received.

(2)(a) A discharge recorded under division (B)(1) or (D) of this section is not a public record under section 149.43 of the Revised Code for a period of seventy-five years after the date of the recording. During that period, the county recorder's office shall make the record of discharge available only to an authorized party or to a person other than an authorized party as provided by division (B)(2)(b) of this section. Except as provided in section 317.27 of the Revised Code, the authorized party shall pay the reasonable costs of copying the record of discharge.

(b) A person other than an authorized party may request to view or receive a copy of a discharge record recorded under division (B)(1) or (D) of this section. Upon such a person's request, the county recorder's office shall provide a copy of the discharged record to the person that shall be redacted to contain only the name, rank, date of birth, date of discharge, and type of discharge of the person who is the subject of the discharge record. Except as provided in section 317.27 of the Revised Code, a person other than an authorized party shall pay the reasonable costs of copying the record of discharge.

(3) A county veterans service officer, who is an authorized party, may request to receive, from a county recorder's office, a record of discharge if the veterans service officer has a need for

access to the record of discharge for the purpose of supporting a 293
veteran's claim for benefits, and the county recorder's office 294
shall make the record available to the county veterans service 295
officer. 296

(C) Upon application by a person whose discharge has been 297
recorded pursuant to this section, the county recorder shall, 298
without fee, expunge the person's record of discharge, expunge the 299
person's separation program number or separation code from the 300
person's record of discharge and from any of the person's other 301
service-related documents that have been recorded, or expunge the 302
person's social security number from the person's record of 303
discharge and from any of the person's other service-related 304
documents that have been recorded. The application shall be in the 305
following form: 306

"APPLICATION FOR EXPUNGEMENT 307
OF DISCHARGE RECORD OR OTHER INFORMATION 308

I, (Name of Applicant), the undersigned, 309
hereby request the County Recorder of the County of 310
(Name of County), state of Ohio, to expunge my (Insert 311
Record of Discharge, Separation Program Number or Separation Code 312
from my Record of Discharge and other service-related documents, 313
or Social Security Number from my Record of Discharge and other 314
service-related documents). 315

Dated this day of, 316

.....
(Signature of Applicant)

Sworn to and subscribed before me by (Name of 317
Applicant) on, 318

.....
Notary Public 319

My commission expires," 320

(D) Upon the request of any person who served during World 321
War I or World War II as a member of any armed force of the 322
government of Poland or Czechoslovakia and participated while so 323
serving in armed conflict with an enemy of the United States and 324
who has been a citizen of the United States for at least ten 325
years, and the presentation of the person's discharge, the county 326
recorder shall record the person's discharge in a book to be 327
furnished by the board of county commissioners for that purpose. 328
No fee shall be charged for the recording. The record, or a 329
certified copy of it, shall be received in evidence in all cases 330
where the original would be received. 331

Sec. 3319.085. Any nonteaching school employee who, 332
~~subsequent to September 1, 1962, has left, or leaves, the employ~~ 333
~~of a board of education for the purpose of entering on extended~~ 334
~~active duty in the armed services of the United States or the~~ 335
~~auxiliaries thereof, and within eight weeks enters such service~~ 336
performs service in the uniformed services or service under 337
section 5923.12 of the Revised Code and who has returned, or 338
returns, from ~~such~~ that service with an ~~honorable~~ a discharge 339
under honorable conditions or ~~certificate of~~ is released from 340
service under section 5923.12 of the Revised Code shall be 341
re-employed by the board of education of the district in which ~~he~~ 342
the nonteaching school employee held ~~such~~ the nonteaching school 343
employee position, ~~under the same type of contract as that which~~ 344
~~he last held in such district, if such nonteaching school employee~~ 345
~~applies, within ninety days after such discharge, to such board of~~ 346
~~education for re-employment. Upon such application, such~~ 347
~~nonteaching school employee shall be re-employed at the first of~~ 348
~~the next school semester, if such application is made not less~~ 349
~~than thirty days prior to the first of such next school semester,~~ 350
~~in which case such nonteaching school employee shall be~~ 351
~~re-employed the first of the following school semester, unless the~~ 352

~~board of education waives the requirement for such thirty day period.~~ 353
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~~For the purposes of seniority and placement on the salary schedule, years of absence on extended active duty in the armed services of the United States or the auxiliaries thereof shall not exceed four, and shall be counted as though school service had been performed during such time as required by the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 4303.~~ 355
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The board of education of ~~this~~ the district in which ~~such~~ the nonteaching school employee was employed and is re-employed under this section may suspend the contract of the nonteaching school employee whose services become unnecessary by reason of the return of a nonteaching school employee from service in the ~~armed~~ uniformed services ~~or auxiliaries thereof.~~ 362
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As used in this section, "service in the uniformed services" and "uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 4303. 368
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Sec. 3333.31. (A) For state subsidy and tuition surcharge purposes, status as a resident of Ohio shall be defined by the chancellor of the Ohio board of regents by rule promulgated pursuant to Chapter 119. of the Revised Code. No adjudication as to the status of any person under such rule, however, shall be required to be made pursuant to Chapter 119. of the Revised Code. The term "resident" for these purposes shall not be equated with the definition of that term as it is employed elsewhere under the laws of this state and other states, and shall not carry with it any of the legal connotations appurtenant thereto. Rather, except as provided in divisions (B) and (D) of this section, for such purposes, the rule promulgated under this section shall have the 372
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objective of excluding from treatment as residents those who are 384
present in the state primarily for the purpose of attending a 385
state-supported or state-assisted institution of higher education, 386
and may prescribe presumptive rules, rebuttable or conclusive, as 387
to such purpose based upon the source or sources of support of the 388
student, residence prior to first enrollment, evidence of 389
intention to remain in the state after completion of studies, or 390
such other factors as the chancellor deems relevant. 391

(B) The rules of the chancellor for determining student 392
residency shall grant residency status to a veteran and to the 393
veteran's spouse and any dependent of the veteran, if both of the 394
following conditions are met: 395

(1) The veteran either: 396

(a) Served one or more years on active military duty and was 397
honorably discharged or received a medical discharge that was 398
related to the military service; 399

(b) Was killed while serving on active military duty or has 400
been declared to be missing in action or a prisoner of war. 401

(2) If the veteran seeks residency status for tuition 402
surcharge purposes, the veteran has established domicile in this 403
state as of the first day of a term of enrollment in an 404
institution of higher education. If the spouse or a dependent of 405
the veteran seeks residency status for tuition surcharge purposes, 406
the veteran and the spouse or dependent seeking residency status 407
have established domicile in this state as of the first day of a 408
term of enrollment in an institution of higher education, except 409
that if the veteran was killed while serving on active military 410
duty ~~or~~, has been declared to be missing in action or a prisoner 411
of war, or is deceased after discharge, only the spouse or 412
dependent seeking residency status shall be required to have 413
established domicile in accordance with this division. 414

(C) The rules of the chancellor for determining student 415
residency shall not deny residency status to a student who is 416
either a dependent child of a parent, or the spouse of a person 417
who, as of the first day of a term of enrollment in an institution 418
of higher education, has accepted full-time employment and 419
established domicile in this state for reasons other than gaining 420
the benefit of favorable tuition rates. 421

Documentation of full-time employment and domicile shall 422
include both of the following documents: 423

(1) A sworn statement from the employer or the employer's 424
representative on the letterhead of the employer or the employer's 425
representative certifying that the parent or spouse of the student 426
is employed full-time in Ohio; 427

(2) A copy of the lease under which the parent or spouse is 428
the lessee and occupant of rented residential property in the 429
state, a copy of the closing statement on residential real 430
property of which the parent or spouse is the owner and occupant 431
in this state or, if the parent or spouse is not the lessee or 432
owner of the residence in which the parent or spouse has 433
established domicile, a letter from the owner of the residence 434
certifying that the parent or spouse resides at that residence. 435

Residency officers may also evaluate, in accordance with the 436
chancellor's rule, requests for immediate residency status from 437
dependent students whose parents are not living and whose domicile 438
follows that of a legal guardian who has accepted full-time 439
employment and established domicile in the state for reasons other 440
than gaining the benefit of favorable tuition rates. 441

(D)(1) The rules of the chancellor for determining student 442
residency shall grant residency status to a person who, while a 443
resident of this state for state subsidy and tuition surcharge 444
purposes, graduated from a high school in this state or completed 445

the final year of instruction at home as authorized under section 446
3321.04 of the Revised Code, if the person enrolls in an 447
institution of higher education and establishes domicile in this 448
state, regardless of the student's residence prior to that 449
enrollment. 450

(2) The rules of the chancellor for determining student 451
residency shall not grant residency status to an alien if the 452
alien is not also an immigrant or a nonimmigrant. 453

(E) As used in this section: 454

(1) "Dependent," "domicile," "institution of higher 455
education," and "residency officer" have the meanings ascribed in 456
the chancellor's rules adopted under this section. 457

(2) "Alien" means a person who is not a United States citizen 458
or a United States national. 459

(3) "Immigrant" means an alien who has been granted the right 460
by the United States bureau of citizenship and immigration 461
services to reside permanently in the United States and to work 462
without restrictions in the United States. 463

(4) "Nonimmigrant" means an alien who has been granted the 464
right by the United States bureau of citizenship and immigration 465
services to reside temporarily in the United States. 466

Sec. 3737.881. (A) The fire marshal shall certify underground 467
storage tank systems installers who meet the standards for 468
certification established in rules adopted under division (D)(1) 469
of this section, pass the certification examination required by 470
this division, and pay the certificate fee established in rules 471
adopted under division (D)(5) of this section. Any individual who 472
wishes to obtain certification as an installer shall apply to the 473
fire marshal on a form prescribed by the fire marshal. The 474
application shall be accompanied by the application and 475

examination fees established in rules adopted under division 476
(D)(5) of this section. 477

The fire marshal shall prescribe an examination designed to 478
test the knowledge of applicants for certification as underground 479
storage tank system installers in the installation, repair, 480
abandonment, and removal of those systems. The examination shall 481
also test the applicants' knowledge and understanding of the 482
requirements and standards established in rules adopted under 483
sections 3737.88 and 3737.882 of the Revised Code pertaining to 484
the installation, repair, abandonment, and removal of those 485
systems. 486

Installer certifications issued under this division shall be 487
renewed annually, upon submission of a certification renewal form 488
prescribed by the fire marshal, provision of proof of successful 489
completion of continuing education requirements, and payment of 490
the certification renewal fee established in rules adopted under 491
division (D)(5) of this section. In addition, the fire marshal may 492
from time to time prescribe an examination for certification 493
renewal and may require applicants to pass the examination and pay 494
the fee established for it in rules adopted under division (D)(5) 495
of this section. 496

The fire marshal may, in accordance with Chapter 119. of the 497
Revised Code, deny, suspend, revoke, or refuse to renew an 498
installer's certification or renewal thereof ~~if he finds~~ after 499
finding that any of the following applies: 500

(1) The applicant for certification or certificate holder 501
fails to meet the standards for certification or renewal thereof 502
under this section and rules adopted under it; 503

(2) The certification was obtained through fraud or 504
misrepresentation; 505

(3) The certificate holder recklessly caused or permitted a 506

person under ~~his~~ the certificate holder's supervision to install, 507
perform major repairs on site to, abandon, or remove an 508
underground storage tank system in violation of the performance 509
standards set forth in rules adopted under section 3737.88 or 510
3737.882 of the Revised Code. 511

As used in division (A)(3) of this section, "recklessly" has 512
the same meaning as in section 2901.22 of the Revised Code. 513

(B) The fire marshal shall certify persons who sponsor 514
training programs for underground storage tank system installers 515
who meet the criteria for certification established in rules 516
adopted by the fire marshal under division (D)(4) of this section 517
and pay the certificate fee established in rules adopted under 518
division (D)(5) of this section. Any person who wishes to obtain 519
certification to sponsor such a training program shall apply to 520
the fire marshal on a form prescribed by ~~him~~ the fire marshal. 521
Training program certificates issued under this division shall 522
expire annually. Upon submission of a certification renewal 523
application form prescribed by the fire marshal and payment of the 524
application and certification renewal fees established in rules 525
adopted under division (D)(5) of this section, the fire marshal 526
shall issue a training program renewal certificate to the 527
applicant. 528

The fire marshal may, in accordance with Chapter 119. of the 529
Revised Code, deny an application for, suspend, or revoke a 530
training program certificate or renewal ~~thereof if he finds or~~ 531
renewal of a training program certificate after finding that the 532
training program does not or will not meet the standards for 533
certification established in rules adopted under division (D)(4) 534
of this section. 535

(C) The fire marshal may conduct or cause to be conducted 536
training programs for underground storage tank systems installers 537
as ~~he~~ the fire marshal considers to be necessary or appropriate. 538

The fire marshal is not subject to division (B) of this section 539
with respect to training programs conducted by employees of the 540
office of the fire marshal. 541

(D) The fire marshal shall adopt, and may amend and rescind, 542
rules doing all of the following: 543

(1) Defining the activities that constitute supervision over 544
the installation, performance of major repairs on site to, 545
abandonment of, and removal of underground storage tank systems; 546

(2) Establishing standards and procedures for certification 547
of underground storage tank systems installers; 548

(3) Establishing standards and procedures for continuing 549
education for certification renewal, subject to the provisions of 550
section 5903.12 of the Revised Code relating to active duty 551
military service; 552

(4) Establishing standards and procedures for certification 553
of training programs for installers; 554

(5) Establishing fees for applications for certifications 555
under this section, the examinations prescribed under division (A) 556
of this section, the issuance and renewal of certificates under 557
divisions (A) and (B) of this section, and attendance at training 558
programs conducted by the fire marshal under division (C) of this 559
section. Fees received under this section shall be credited to the 560
underground storage tank administration fund created in section 561
3737.02 of the Revised Code and shall be used to defray the costs 562
of implementing, administering, and enforcing this section and the 563
rules adopted thereunder, conducting training sessions, and 564
facilitating prevention of releases. 565

(6) That are necessary or appropriate for the implementation, 566
administration, and enforcement of this section. 567

(E) Nothing in this section or the rules adopted under it 568

prohibits an owner or operator of an underground storage tank 569
system from installing, making major repairs on site to, 570
abandoning, or removing an underground storage tank system under 571
the supervision of an installer certified under division (A) of 572
this section who is a full-time or part-time employee of the owner 573
or operator. 574

(F) On and after ~~the date one hundred eighty days after the~~ 575
~~effective date of this section~~ January 7, 1990, no person shall do 576
any of the following: 577

(1) Install, make major repairs on site to, abandon, or 578
remove an underground storage tank system unless the activity is 579
performed under the supervision of a qualified individual who 580
holds a valid installer certificate issued under division (A) of 581
this section; 582

(2) Act in the capacity of providing supervision for the 583
installation of, performance of major repairs on site to, 584
abandonment of, or removal of an underground storage tank system 585
unless the person holds a valid installer certificate issued under 586
division (A) of this section; 587

(3) Except as provided in division (C) of this section, 588
sponsor a training program for underground storage tank systems 589
installers unless the person holds a valid training program 590
certificate issued under division (B) of this section. 591

Sec. 3781.10. (A)(1) The board of building standards shall 592
formulate and adopt rules governing the erection, construction, 593
repair, alteration, and maintenance of all buildings or classes of 594
buildings specified in section 3781.06 of the Revised Code, 595
including land area incidental to those buildings, the 596
construction of industrialized units, the installation of 597
equipment, and the standards or requirements for materials used in 598
connection with those buildings. The board shall incorporate those 599

rules into separate residential and nonresidential building codes. 600
The standards shall relate to the conservation of energy and the 601
safety and sanitation of those buildings. 602

(2) The rules governing nonresidential buildings are the 603
lawful minimum requirements specified for those buildings and 604
industrialized units, except that no rule other than as provided 605
in division (C) of section 3781.108 of the Revised Code that 606
specifies a higher requirement than is imposed by any section of 607
the Revised Code is enforceable. The rules governing residential 608
buildings are uniform requirements for residential buildings in 609
any area with a building department certified to enforce the state 610
residential building code. In no case shall any local code or 611
regulation differ from the state residential building code unless 612
that code or regulation addresses subject matter not addressed by 613
the state residential building code or is adopted pursuant to 614
section 3781.01 of the Revised Code. 615

(3) The rules adopted pursuant to this section are complete, 616
lawful alternatives to any requirements specified for buildings or 617
industrialized units in any section of the Revised Code. Except as 618
otherwise provided in division (I) of this section, the board 619
shall, on its own motion or on application made under sections 620
3781.12 and 3781.13 of the Revised Code, formulate, propose, 621
adopt, modify, amend, or repeal the rules to the extent necessary 622
or desirable to effectuate the purposes of sections 3781.06 to 623
3781.18 of the Revised Code. 624

(B) The board shall report to the general assembly proposals 625
for amendments to existing statutes relating to the purposes 626
declared in section 3781.06 of the Revised Code that public health 627
and safety and the development of the arts require and shall 628
recommend any additional legislation to assist in carrying out 629
fully, in statutory form, the purposes declared in that section. 630
The board shall prepare and submit to the general assembly a 631

summary report of the number, nature, and disposition of the 632
petitions filed under sections 3781.13 and 3781.14 of the Revised 633
Code. 634

(C) On its own motion or on application made under sections 635
3781.12 and 3781.13 of the Revised Code, and after thorough 636
testing and evaluation, the board shall determine by rule that any 637
particular fixture, device, material, process of manufacture, 638
manufactured unit or component, method of manufacture, system, or 639
method of construction complies with performance standards adopted 640
pursuant to section 3781.11 of the Revised Code. The board shall 641
make its determination with regard to adaptability for safe and 642
sanitary erection, use, or construction, to that described in any 643
section of the Revised Code, wherever the use of a fixture, 644
device, material, method of manufacture, system, or method of 645
construction described in that section of the Revised Code is 646
permitted by law. The board shall amend or annul any rule or issue 647
an authorization for the use of a new material or manufactured 648
unit on any like application. No department, officer, board, or 649
commission of the state other than the board of building standards 650
or the board of building appeals shall permit the use of any 651
fixture, device, material, method of manufacture, newly designed 652
product, system, or method of construction at variance with what 653
is described in any rule the board of building standards adopts or 654
issues or that is authorized by any section of the Revised Code. 655
Nothing in this section shall be construed as requiring approval, 656
by rule, of plans for an industrialized unit that conforms with 657
the rules the board of building standards adopts pursuant to 658
section 3781.11 of the Revised Code. 659

(D) The board shall recommend rules, codes, and standards to 660
help carry out the purposes of section 3781.06 of the Revised Code 661
and to help secure uniformity of state administrative rulings and 662
local legislation and administrative action to the bureau of 663

workers' compensation, the director of commerce, any other 664
department, officer, board, or commission of the state, and to 665
legislative authorities and building departments of counties, 666
townships, and municipal corporations, and shall recommend that 667
they audit those recommended rules, codes, and standards by any 668
appropriate action that they are allowed pursuant to law or the 669
constitution. 670

(E)(1) The board shall certify municipal, township, and 671
county building departments and the personnel of those building 672
departments, and persons and employees of individuals, firms, or 673
corporations as described in division (E)(7) of this section to 674
exercise enforcement authority, to accept and approve plans and 675
specifications, and to make inspections, pursuant to sections 676
3781.03, 3791.04, and 4104.43 of the Revised Code. 677

(2) The board shall certify departments, personnel, and 678
persons to enforce the state residential building code, to enforce 679
the nonresidential building code, or to enforce both the 680
residential and the nonresidential building codes. Any department, 681
personnel, or person may enforce only the type of building code 682
for which certified. 683

(3) The board shall not require a building department, its 684
personnel, or any persons that it employs to be certified for 685
residential building code enforcement if that building department 686
does not enforce the state residential building code. The board 687
shall specify, in rules adopted pursuant to Chapter 119. of the 688
Revised Code, the requirements for certification for residential 689
and nonresidential building code enforcement, which shall be 690
consistent with this division. The requirements for residential 691
and nonresidential certification may differ. Except as otherwise 692
provided in this division, the requirements shall include, but are 693
not limited to, the satisfactory completion of an initial 694
examination and, to remain certified, the completion of a 695

specified number of hours of continuing building code education 696
within each three-year period following the date of certification 697
which shall be not less than thirty hours. The rules shall provide 698
that continuing education credits and certification issued by the 699
council of American building officials, national model code 700
organizations, and agencies or entities the board recognizes are 701
acceptable for purposes of this division. The rules shall specify 702
requirements that are consistent with the provisions of section 703
5903.12 of the Revised Code relating to active duty military 704
service and are compatible, to the extent possible, with 705
requirements the council of American building officials and 706
national model code organizations establish. 707

(4) The board shall establish and collect a certification and 708
renewal fee for building department personnel, and persons and 709
employees of persons, firms, or corporations as described in this 710
section, who are certified pursuant to this division. 711

(5) Any individual certified pursuant to this division shall 712
complete the number of hours of continuing building code education 713
that the board requires or, for failure to do so, forfeit 714
certification. 715

(6) This division does not require or authorize the board to 716
certify personnel of municipal, township, and county building 717
departments, and persons and employees of persons, firms, or 718
corporations as described in this section, whose responsibilities 719
do not include the exercise of enforcement authority, the approval 720
of plans and specifications, or making inspections under the state 721
residential and nonresidential building codes. 722

(7) Enforcement authority for approval of plans and 723
specifications and enforcement authority for inspections may be 724
exercised, and plans and specifications may be approved and 725
inspections may be made on behalf of a municipal corporation, 726
township, or county, by any of the following who the board of 727

building standards certifies:	728
(a) Officers or employees of the municipal corporation, township, or county;	729 730
(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;	731 732 733
(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services.	734 735 736 737
(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.	738 739 740 741 742
(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:	743 744 745 746
(a) Whether the certification is requested for residential or nonresidential buildings, or both;	747 748
(b) The number and qualifications of the staff composing the building department;	749 750
(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;	751 752 753
(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;	754 755 756 757

(e) The proposed budget for the operation of the building department.	758 759
(10) The board of building standards shall adopt rules governing all of the following:	760 761
(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.	762 763 764 765 766 767 768 769 770 771 772 773 774 775
(b) The minimum services to be provided by a certified building department.	776 777
(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.	778 779 780 781 782 783 784 785 786
(12) Upon certification, and until that authority is revoked, any county or township building department shall enforce the	787 788

residential and nonresidential building codes for which it is 789
certified without regard to limitation upon the authority of 790
boards of county commissioners under Chapter 307. of the Revised 791
Code or boards of township trustees under Chapter 505. of the 792
Revised Code. 793

(F) In addition to hearings sections 3781.06 to 3781.18 and 794
3791.04 of the Revised Code require, the board of building 795
standards shall make investigations and tests, and require from 796
other state departments, officers, boards, and commissions 797
information the board considers necessary or desirable to assist 798
it in the discharge of any duty or the exercise of any power 799
mentioned in this section or in sections 3781.06 to 3781.18, 800
3791.04, and 4104.43 of the Revised Code. 801

(G) The board shall adopt rules and establish reasonable fees 802
for the review of all applications submitted where the applicant 803
applies for authority to use a new material, assembly, or product 804
of a manufacturing process. The fee shall bear some reasonable 805
relationship to the cost of the review or testing of the 806
materials, assembly, or products and for the notification of 807
approval or disapproval as provided in section 3781.12 of the 808
Revised Code. 809

(H) The residential construction advisory committee shall 810
provide the board with a proposal for a state residential building 811
code that the committee recommends pursuant to division (D)(1) of 812
section 4740.14 of the Revised Code. Upon receiving a 813
recommendation from the committee that is acceptable to the board, 814
the board shall adopt rules establishing that code as the state 815
residential building code. 816

(I)(1) The committee may provide the board with proposed 817
rules to update or amend the state residential building code that 818
the committee recommends pursuant to division (E) of section 819
4740.14 of the Revised Code. 820

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 4743.04. (A) The renewal of a license or other authorization to practice a trade or profession issued under Title XLVII of the Revised Code is subject to the provisions of section 5903.10 of the Revised Code relating to service in the armed forces of the United States or the Ohio national guard.

(B) Continuing education requirements applicable to the licensees under Title XLVII of the Revised Code are subject to the provisions of section 5903.12 of the Revised Code relating to active duty military service.

(C) A department, agency, or office of this state or of any political subdivision of this state that issues a license or certificate to practice a trade or profession may, pursuant to rules adopted by the department, agency, or office, issue a temporary license or certificate to practice the trade or profession to a person whose spouse is on active military duty in this state.

Sec. 5321.04. (A) A landlord who is a party to a rental agreement shall do all of the following:

(1) Comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety;

(2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;

(3) Keep all common areas of the premises in a safe and sanitary condition;

(4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by ~~him~~ the landlord;

(5) When ~~he~~ the landlord is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;

(6) Supply running water, reasonable amounts of hot water, and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection;

(7) Not abuse the right of access conferred by division (B) of section 5321.05 of the Revised Code;

(8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of ~~his~~ the landlord's intent to enter and enter only at reasonable times. Twenty-four

hours is presumed to be a reasonable notice in the absence of 882
evidence to the contrary. 883

(9) Promptly commence an action under Chapter 1923. of the 884
Revised Code, after complying with division (C) of section 5321.17 885
of the Revised Code, to remove a tenant from particular 886
residential premises, if the tenant fails to vacate the premises 887
within three days after the giving of the notice required by that 888
division and if the landlord has actual knowledge of or has 889
reasonable cause to believe that the tenant, any person in the 890
tenant's household, or any person on the premises with the consent 891
of the tenant previously has or presently is engaged in a 892
violation as described in division (A)(6)(a)(i) of section 1923.02 893
of the Revised Code, whether or not the tenant or other person has 894
been charged with, has pleaded guilty to or been convicted of, or 895
has been determined to be a delinquent child for an act that, if 896
committed by an adult, would be a violation as described in that 897
division. Such actual knowledge or reasonable cause to believe 898
shall be determined in accordance with that division. 899

(10) Comply with the rights of tenants under the 900
Servicemembers Civil Relief Act, 117 Stat. 2835, 50 U.S.C. App. 901
501. 902

(B) If the landlord makes an entry in violation of division 903
(A)(8) of this section, makes a lawful entry in an unreasonable 904
manner, or makes repeated demands for entry otherwise lawful that 905
have the effect of harassing the tenant, the tenant may recover 906
actual damages resulting from the entry or demands, obtain 907
injunctive relief to prevent the recurrence of the conduct, and 908
obtain a judgment for reasonable attorney's fees, or may terminate 909
the rental agreement. 910

Sec. 5902.02. The duties of the director of veterans services 911
shall include the following: 912

(A) Furnishing the veterans service commissions of all 913
counties of the state copies of the state laws, rules, and 914
legislation relating to the operation of the commissions and their 915
offices; 916

(B) Upon application, assisting the general public in 917
obtaining records of vital statistics pertaining to veterans or 918
their dependents; 919

(C) Adopting rules pursuant to Chapter 119. of the Revised 920
Code pertaining to minimum qualifications for hiring, certifying, 921
and accrediting county veterans service officers, pertaining to 922
their required duties, and pertaining to revocation of the 923
certification of county veterans service officers; 924

(D) Adopting rules pursuant to Chapter 119. of the Revised 925
Code for the education, training, certification, and duties of 926
veterans service commissioners and for the revocation of the 927
certification of a veterans service commissioner; 928

(E) Developing and monitoring programs and agreements 929
enhancing employment and training for veterans in single or 930
multiple county areas; 931

(F) Developing and monitoring programs and agreements to 932
enable county veterans service commissions to address 933
homelessness, indigency, and other veteran-related issues 934
individually or jointly; 935

(G) Developing and monitoring programs and agreements to 936
enable state agencies, individually or jointly, that provide 937
services to veterans, including the veterans' homes operated under 938
Chapter 5907. of the Revised Code and the director of job and 939
family services, to address homelessness, indigency, employment, 940
and other veteran-related issues; 941

(H) Establishing and providing statistical reporting formats 942
and procedures for county veterans service commissions; 943

(I) Publishing annually, ~~promulgating change notices for, and~~ 944
~~distributing electronically~~ a listing of county veterans service 945
~~officers, offices and~~ county veterans service commissioners, ~~state~~ 946
~~directors of veterans affairs, and national and state service~~ 947
~~officers of accredited veterans organizations and their state~~ 948
~~headquarters.~~ The listing shall include the expiration dates of 949
commission members' terms of office and the organizations they 950
represent; the names, addresses, and telephone numbers of county 951
veterans service ~~officers and state directors of veterans affairs~~ 952
offices; and the addresses and telephone numbers of the Ohio 953
offices and headquarters of state and national veterans service 954
organizations. 955

(J) Establishing a veterans advisory committee to advise and 956
assist the department of veterans services in its duties. Members 957
shall include a member of the national guard association of the 958
United States who is a resident of this state, a member of the 959
military officers association of America who is a resident of this 960
state, a state representative of congressionally chartered 961
veterans organizations referred to in section 5901.02 of the 962
Revised Code, a representative of any other congressionally 963
chartered state veterans organization that has at least one 964
veterans service commissioner in the state, three representatives 965
of the Ohio state association of county veterans service 966
commissioners, who shall have a combined vote of one, three 967
representatives of the state association of county veterans 968
service officers, who shall have a combined vote of one, one 969
representative of the county commissioners association of Ohio, 970
who shall be a county commissioner not from the same county as any 971
of the other county representatives, a representative of the 972
advisory committee on women veterans, a representative of a labor 973
organization, and a representative of the office of the attorney 974
general. The department of veterans services shall submit to the 975
advisory committee proposed rules for the committee's operation. 976

The committee may review and revise these proposed rules prior to 977
submitting them to the joint committee on agency rule review. 978

(K) Adopting, with the advice and assistance of the veterans 979
advisory committee, policy and procedural guidelines that the 980
veterans service commissions shall adhere to in the development 981
and implementation of rules, policies, procedures, and guidelines 982
for the administration of Chapter 5901. of the Revised Code. The 983
department of veterans services shall adopt no guidelines or rules 984
regulating the purposes, scope, duration, or amounts of financial 985
assistance provided to applicants pursuant to sections 5901.01 to 986
5901.15 of the Revised Code. The director of veterans services may 987
obtain opinions from the office of the attorney general regarding 988
rules, policies, procedures, and guidelines of the veterans 989
service commissions and may enforce compliance with Chapter 5901. 990
of the Revised Code. 991

(L) Receiving copies of form DD214 filed in accordance with 992
the director's guidelines adopted under division (L) of this 993
section from members of veterans service commissions appointed 994
under section 5901.02 and from county veterans service officers 995
employed under section 5901.07 of the Revised Code; 996

(M) Developing and maintaining and improving a resource, such 997
as a telephone answering point or a web site, by means of which 998
veterans and their dependents, through a single portal, can access 999
multiple sources of information and interaction with regard to the 1000
rights of, and the benefits available to, veterans and their 1001
dependents. The director of veterans services may enter into 1002
agreements with state and federal agencies, with agencies of 1003
political subdivisions, with state and local instrumentalities, 1004
and with private entities as necessary to make the resource as 1005
complete as is possible. 1006

(N) Planning, organizing, advertising, and conducting 1007
outreach efforts, such as conferences and fairs, at which veterans 1008

and their dependents may meet, learn about the organization and 1009
operation of the department of veterans services and of veterans 1010
service commissions, and obtain information about the rights of, 1011
and the benefits and services available to, veterans and their 1012
dependents; 1013

(O) Advertising, in print, on radio and television, and 1014
otherwise, the rights of, and the benefits and services available 1015
to, veterans and their dependents; 1016

(P) Developing and advocating improved benefits and services 1017
for, and improved delivery of benefits and services to, veterans 1018
and their dependents; 1019

(Q) Searching for, identifying, and reviewing statutory and 1020
administrative policies that relate to veterans and their 1021
dependents and reporting to the general assembly statutory and 1022
administrative policies that should be consolidated in whole or in 1023
part within the organization of the department of veterans 1024
services to unify funding, delivery, and accounting of statutory 1025
and administrative policy expressions that relate particularly to 1026
veterans and their dependents; 1027

(R) Encouraging veterans service commissions to innovate and 1028
otherwise to improve efficiency in delivering benefits and 1029
services to veterans and their dependents and to report successful 1030
innovations and efficiencies to the director of veterans services; 1031

(S) Publishing and encouraging adoption of successful 1032
innovations and efficiencies veterans service commissions have 1033
achieved in delivering benefits and services to veterans and their 1034
dependents; 1035

(T) Establishing advisory committees, in addition to the 1036
veterans advisory committee established under division (K) of this 1037
section, on veterans issues; 1038

(U) Developing and maintaining a relationship with the United 1039

States department of veterans affairs, seeking optimal federal 1040
benefits and services for Ohio veterans and their dependents, and 1041
encouraging veterans service commissions to maximize the federal 1042
benefits and services to which veterans and their dependents are 1043
entitled; 1044

(V) Developing and maintaining relationships with the several 1045
veterans organizations, encouraging the organizations in their 1046
efforts at assisting veterans and their dependents, and advocating 1047
for adequate state subsidization of the organizations; 1048

(W) Requiring the several veterans organizations that receive 1049
funding from the state annually to report to the director of 1050
veterans services and prescribing the form and content of the 1051
report; 1052

(X) Investigating complaints against county veterans services 1053
commissioners and county veterans service officers if the director 1054
reasonably believes the investigation to be appropriate and 1055
necessary; 1056

(Y) Taking any other actions required by this chapter. 1057

Sec. 5903.10. ~~Any (A) A~~ holder of an expired license or 1058
certificate from this state or any political subdivision or agency 1059
of the state to practice a trade or profession, ~~whose license or~~ 1060
~~certificate was not renewed because of the holder's service in the~~ 1061
~~armed forces of the United States, or in the national guard or in~~ 1062
~~a reserve component, shall, upon presentation of satisfactory~~ 1063
~~evidence of honorable discharge or separation under honorable~~ 1064
~~conditions therefrom within six months of such discharge or~~ 1065
~~separation,~~ be granted a renewal of ~~said~~ the license or 1066
certificate by the issuing board or authority at the usual cost 1067
without penalty and without re-examination if not otherwise 1068
disqualified because of mental or physical disability and if 1069
either of the following applies: 1070

(1) The license or certificate was not renewed because of the holder's service in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard.

(2) The license or certificate was not renewed because the holder's spouse served in the armed forces of the United States or a reserved component of the armed forces of the United States, including the Ohio national guard, and the service resulted in the holder's absence from this state.

(B) A renewal shall not be granted under division (A) of this section unless the holder or the holder's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

Sec. 5903.11. (A) Any federally funded employment and training program administered by any state agency including, but not limited to, the "Job Training Partnership Workforce Investment Act of 1998," 96 112 Stat. 1322 (1982) 936, codified in scattered sections of 29 U.S.C.A. 1501, as amended, shall include a veteran priority system to provide maximum employment and training opportunities to veterans and ~~other~~ eligible persons within each targeted group as established by federal law and state and federal policy in the service area. Disabled veterans, veterans of the Vietnam era, other veterans, and ~~other~~ eligible persons shall receive preference over nonveterans within each targeted group in the provision of employment and training services available through these programs as required by this section.

(B) Each state agency shall refer qualified applicants to job openings and training opportunities in programs described in division (A) of this section in the following order of priority:

(1) Special disabled veterans;	1102
(2) Veterans of the Vietnam era;	1103
(3) Disabled veterans;	1104
(4) All other veterans;	1105
(5) Other eligible persons;	1106
(6) Nonveterans.	1107
(C) Each state agency providing employment and training	1108
services to veterans and other eligible persons under programs	1109
described in division (A) of this section shall submit an annual	1110
written report to the speaker of the house of representatives and	1111
the president of the senate on the services that it provides to	1112
veterans and other eligible persons. Each such agency shall report	1113
separately on all entitlement programs, employment or training	1114
programs, and any other programs that it provides to each class of	1115
persons described in divisions (B)(1) to (6) of this section. Each	1116
such agency shall also report on action taken to ensure compliance	1117
with statutory requirements. Compliance and reporting procedures	1118
shall be in accordance with the reporting procedures then in	1119
effect for all employment and training programs described in	1120
division (A) of this section, with the addition of veterans as a	1121
separate reporting module.	1122
(D) All state agencies that administer federally funded	1123
employment and training programs described in division (A) of this	1124
section for veterans and other eligible persons shall do all of	1125
the following:	1126
(1) Ensure that veterans are treated with courtesy and	1127
respect at all state governmental facilities;	1128
(2) Give priority in referral to jobs to qualified veterans	1129
and other eligible persons;	1130
(3) Give priority in referral to and enrollment in training	1131

programs to qualified veterans and other eligible persons;	1132
(4) Give preferential treatment to special disabled veterans	1133
in the provision of all needed state services;	1134
(5) Provide information and effective referral assistance to	1135
veterans and other eligible persons regarding needed benefits and	1136
services that may be obtained through other agencies.	1137
(E) As used in this section:	1138
(1) "Special disabled veteran" means a veteran who is	1139
entitled to, or who but for the receipt of military pay would be	1140
entitled to, compensation under any law administered by the	1141
department of veterans affairs for a disability rated at thirty	1142
per cent or more or a person who was discharged or released from	1143
active duty because of a service-connected disability.	1144
(2) "Veteran of the Vietnam era" means an eligible veteran	1145
who served on active duty for a period of more than one hundred	1146
eighty days, any part of which occurred from August 5, 1964,	1147
through May 7, 1975, and was discharged or released therefrom with	1148
other than a dishonorable discharge or a person who was discharged	1149
or released from active duty for a service-connected disability if	1150
any part of the active duty was performed from August 5, 1964,	1151
through May 7, 1975.	1152
(3) "Disabled veteran" means a veteran who is entitled to, or	1153
who but for the receipt of military retirement pay would be	1154
entitled to compensation, under any law administered by the	1155
department of veterans affairs and who is not a special disabled	1156
veteran.	1157
(4) "Eligible veteran" means a person who served on active	1158
duty for more than one hundred eighty days and was discharged or	1159
released from active duty with other than a dishonorable discharge	1160
or a person who was discharged or released from active duty	1161
because of a service-connected disability.	1162

(5) "Other eligible person" means one of the following:	1163
(a) The spouse of any person who died of a service-connected disability;	1164 1165
(b) The spouse of any member of the armed forces serving on active duty who at the time of the spouse's application for assistance under any program described in division (A) of this section is listed pursuant to the "Act of September 6, 1966," 80 Stat. 629, 37 U.S.C.A. 556, and the regulations issued pursuant thereto, as having been in one or more of the following categories for a total of ninety or more days:	1166 1167 1168 1169 1170 1171 1172
(i) Missing in action;	1173
(ii) Captured in line of duty by a hostile force;	1174
(iii) Forcibly detained or interned in line of duty by a foreign government or power.	1175 1176
(c) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while such a disability was in existence.	1177 1178 1179 1180
(6) "Veteran" means either of the following:	1181
(a) Any person who was a member of the armed forces of the United States for a period of one hundred eighty days or more or a person who was discharged or released from active duty because of a service-connected disability;	1182 1183 1184 1185
(b) A person who served as a member of the United States merchant marine and to whom either of the following applies:	1186 1187
(i) The person has an honorable report of separation from active duty military service, form DD214 or DD215.	1188 1189
(ii) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of	1190 1191 1192

service.	1193
(7) "Armed forces of the United States" means the army, air force, navy, marine corps, coast guard, and any other military service branch that is designated by congress as a part of the armed forces of the United States.	1194 1195 1196 1197
(8) "Employment program" means a program which provides referral of individuals to employer job openings in the federal, state, or private sector.	1198 1199 1200
(9) "Training program" means any program that upgrades the employability of qualified applicants.	1201 1202
(10) "Entitlement program" means any program that enlists specific criteria in determining eligibility, including but not limited to the existence in special segments of the general population of specific financial needs.	1203 1204 1205 1206
(11) "Targeted group" means a group of persons designated by federal law or regulations or by state law to receive special assistance under an employment and training program described in division (A) of this section.	1207 1208 1209 1210
(12) "United States merchant marine" includes the United States army transport service and the United States naval transport service.	1211 1212 1213
Sec. 5911.07. The armories erected by the state are for the use of the organized militia; but in each armory there shall <u>may</u> be provided and maintained, except as provided in this section, a suitable room including heating, lighting, and janitor services, for the free use of the patriotic and national organizations known as the women's relief corps, sons of veterans, sons of veterans' auxiliary, daughters of veterans, united Spanish war veterans, auxiliary united Spanish war veterans, veterans of foreign wars of the United States, veteran organizations of World War I and World	1214 1215 1216 1217 1218 1219 1220 1221 1222

War II, army and navy union of the United States, and honorably 1223
retired officers of the Ohio national guard, Ohio military 1224
reserve, and Ohio naval militia chartered under part B of subtitle 1225
II of Title 36 of the United States Code, unless such rooms are 1226
already provided by the erection of a county memorial building or 1227
otherwise by the state, or by the county, township, or municipal 1228
corporation. This section does not require a separate room to be 1229
maintained for each organization. The room provided in this 1230
section may be used for military training when not in actual use 1231
by one of the aforementioned organizations. This section applies only 1232
during the time that such armory is being used by ~~an active~~ 1233
~~military organization or a~~ unit of the organized militia. 1234

Sec. 5923.12. When ordered to state active duty by the 1235
governor, for which duty federal basic pay and allowances are not 1236
authorized, members of the organized militia of Ohio shall receive 1237
the same pay and allowances for each day's service as is provided 1238
for commissioned officers, warrant officers, noncommissioned 1239
officers, and enlisted personnel of like grade and longevity in 1240
the armed forces of the United States, together with the necessary 1241
transportation, housing, and subsistence allowances as prescribed 1242
by the United States department of defense pay manual, or an 1243
amount not less than seventy-five dollars per day as base pay for 1244
each day's duty performed, whichever is greater. 1245

When ordered by the governor to perform training or duty 1246
under this section or section 5919.29 of the Revised Code, members 1247
of the Ohio national guard shall have the protections afforded to 1248
persons on federal active duty by "~~The Soldiers and Sailors~~ 1249
Servicemembers Civil Relief Act ~~of 1940,~~" 54 117 Stat. ~~1178~~ 2835, 1250
50 ~~App.~~ U.S.C.A. App. 501-~~548~~ and 560-~~591~~. 1251

Sec. 5924.01. As used in Chapter 5924. of the Revised Code 1252
unless the context otherwise requires: 1253

(A) "Organized militia" means the Ohio national guard, the Ohio naval militia, and the Ohio military reserve.	1254 1255
(B) "Officer" means commissioned or warrant officer.	1256
(C) "Commissioned officer" includes a commissioned warrant officer.	1257 1258
(D) "Commanding officer" includes only commissioned <u>or warrant</u> officers <u>in command of a unit</u> .	1259 1260
(E) "Superior commissioned officer" means a commissioned officer superior in rank or command.	1261 1262
(F) "Enlisted member" means a person in an enlisted grade.	1263
(G) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.	1264 1265 1266
(H) "Rank" means the order of precedence among members of the armed forces.	1267 1268
(I) " Active state <u>State active</u> duty" means full-time duty in the active military service of the state under an order <u>a proclamation</u> of the governor issued pursuant to authority vested in him <u>the governor</u> by law, and while going to and returning from such duty.	1269 1270 1271 1272 1273
(J) "Duty status other than active state <u>active</u> duty" means any other types of duty and while going to and returning from such duty.	1274 1275 1276
(K) "Military court" means a court-martial, a court of inquiry, or a provost court.	1277 1278
(L) "Military judge" means an official of a general or special court-martial <u>who is a commissioned officer, who has been duly certified to be qualified for duty as a military judge by the state judge advocate, and who has been properly</u> detailed in accordance with section 5924.26 of the Revised Code.	1279 1280 1281 1282 1283

(M) "Law specialist" means a commissioned officer of the organized naval militia of the state designated for special duty.	1284 1285
(N) "Legal officer" means any commissioned officer of the organized naval militia of the state designated to perform legal duties for a command.	1286 1287 1288
(O) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the organized militia.	1289 1290 1291
(P) "Accuser" means a person who <u>reports an offense subject to trial by court-martial and who</u> signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and <u>or</u> any other person who has an interest other than an official interest in the prosecution of the accused.	1292 1293 1294 1295 1296
(Q) "Military" refers to any or all of the armed forces.	1297
(R) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.	1298 1299 1300
(S) "May" is used in a permissive sense. The words "no person may" mean that no person is required, authorized, or permitted to do the act prescribed.	1301 1302 1303
(T) "Shall" is used in an imperative sense.	1304
(U) "Code" means the Ohio code of military justice, as set forth in Chapter 5924. of the Revised Code.	1305 1306
(V) <u>"Trial counsel" means the prosecuting attorney in a general or special court-martial.</u>	1307 1308
(W) <u>"Detention facility" means any place that is owned or operated by a municipal corporation, by a county, or by one or more municipal corporations, counties, or both and that is used for the confinement of persons charged with or convicted of any crime in this state or another state or under the laws of the</u>	1309 1310 1311 1312 1313

<u>United States.</u>	1314
<u>(X) "Examiner" has the same meaning as in division (A)(2)(a)</u>	1315
<u>of section 2945.37 of the Revised Code.</u>	1316
<u>(Y) "Nonsecured status," "unsupervised, off-grounds</u>	1317
<u>movement," "trial visit," "conditional release," and "licensed</u>	1318
<u>clinical psychologist" have the same meanings as in section</u>	1319
<u>2945.37 of the Revised Code.</u>	1320
Sec. 5924.02. The following persons who are not in federal	1321
service are subject to this code:	1322
(A) Members of the organized militia, <u>including Ohio national</u>	1323
<u>guard dual-status technicians during their normal duty hours;</u>	1324
(B) Persons <u>who have been placed</u> on the state reserve list or	1325
the state retired list <u>pursuant to section 5913.07 or 5919.13 of</u>	1326
<u>the Revised Code;</u>	1327
(C) All other persons lawfully ordered to duty in or with the	1328
organized militia, from the dates they are required by the terms	1329
of the order or other directive to obey the same <u>order or</u>	1330
<u>directive, including any time during which they are going to or</u>	1331
<u>returning from duty in the organized militia.</u>	1332
Sec. 5924.03. (A) Each person discharged from the organized	1333
militia who is later charged with having fraudulently obtained his	1334
<u>the</u> discharge is, subject to section 5924.43 of the Revised Code,	1335
subject to trial by court-martial on that charge and is, after	1336
apprehension, subject to this code while in the custody of the	1337
military for that trial. Upon conviction of that charge he <u>the</u>	1338
<u>person</u> is subject to trial by court-martial for all offenses under	1339
this code committed before the fraudulent charge.	1340
(B) No person who has deserted from the organized militia may	1341
be relieved from amenability to the jurisdiction of this code by	1342

virtue of a separation from any later period of service. 1343

Sec. 5924.06. (A) ~~The governor, on the recommendation of the~~ 1344
adjutant general, shall appoint an officer of the ~~organized~~ 1345
~~militia~~ Ohio national guard as state judge advocate, ~~who. The~~ 1346
officer shall be a member in good standing of the bar of ~~the~~ 1347
~~supreme court of this state and shall have been a member of the~~ 1348
~~bar of the state and a member of the organized militia for at~~ 1349
~~least five years~~ be eligible to be recognized as a colonel under 1350
regulations prescribed by the national guard bureau. 1351

(B) The adjutant general ~~may~~ shall appoint ~~as many assistant~~ 1352
~~state judge advocates as he shall deem necessary, which assistant~~ 1353
~~state judge~~ and legal officers on the recommendation of the state 1354
judge advocate. Judge advocates and legal officers shall be 1355
officers of the organized militia and members in good standing of 1356
the bar of ~~the~~ this state. 1357

(C) The state judge advocate or ~~his assistants~~ subordinate 1358
judge advocates shall make frequent inspections in the field in 1359
supervision of the administration of military justice. 1360

(D) ~~The provisions of section 109.02 of the Revised Code~~ 1361
~~shall not be a restriction upon the appointment and duties as~~ 1362
~~provided in this section.~~ 1363

~~(E)~~ Convening authorities shall at all times communicate 1364
directly with their staff judge advocates or legal officers in 1365
matters relating to the administration of military justice; ~~and~~ 1366
~~the.~~ A staff judge advocate or legal officer of ~~any~~ a command is 1367
entitled to communicate directly with ~~the~~ any staff judge advocate 1368
or legal officer of a superior or subordinate command, or with the 1369
state judge advocate. 1370

~~(F)~~(E) No person who has acted as member, military judge, 1371
trial counsel, assistant trial counsel, defense counsel, assistant 1372

defense counsel, or investigating officer, or who has been a 1373
witness for either the prosecution or defense, in any case may 1374
later act as staff judge advocate or legal officer to any 1375
reviewing authority upon the same case. 1376

Sec. 5924.07. (A) Apprehension is the taking of a person into 1377
custody. 1378

(B) Any person authorized by this code, or by regulations 1379
issued pursuant ~~thereto~~ to this code, to apprehend persons subject 1380
to this code, any marshal of a court-martial appointed pursuant to 1381
the provisions of this code, and any peace officer authorized to 1382
do so by law may do so upon reasonable belief that an offense has 1383
been committed and that the person apprehended committed it. 1384

(C) Commissioned officers, warrant officers, ~~petty officers,~~ 1385
and noncommissioned officers ~~have authority~~ may take reasonable 1386
action to quell quarrels, frays, and disorders among persons 1387
subject to this code and to apprehend persons subject to this code 1388
who take part therein. 1389

(D) A person subject to this code may be apprehended in the 1390
person's home, with the assistance of a local law enforcement 1391
agency, only upon probable cause to believe that the person is 1392
legally subject to apprehension and that the person is or will be 1393
present to be apprehended. 1394

Sec. 5924.08. ~~Any civil~~ A peace officer having authority to 1395
apprehend offenders under the laws of the United States, or of a 1396
state, territory, commonwealth, or possession, or the District of 1397
Columbia may summarily apprehend a deserter from the organized 1398
militia and deliver ~~him~~ the deserter into the custody of the 1399
organized militia. ~~If an offender is apprehended outside the~~ 1400
~~state, his return to the area must be in accordance with normal~~ 1401
~~extradition procedures, or reciprocal agreement.~~ 1402

Sec. 5924.09. (A) Arrest is the restraint of a person by an 1403
oral or written order, not imposed as a punishment for an offense, 1404
directing ~~him~~ the person to remain within certain specified 1405
limits. Confinement is the physical restraint of a person that is 1406
imposed by order of competent authority and deprives the person of 1407
freedom pending disposition of criminal charges. 1408

(B) An enlisted member may be ordered into arrest or 1409
confinement by any ~~commissioned~~ commanding officer by an order, 1410
oral or written, delivered in person or through other persons 1411
subject to this code or through any person authorized by this code 1412
to apprehend persons. A commanding officer may authorize warrant 1413
officers, ~~petty officers,~~ or noncommissioned officers to order 1414
enlisted members of ~~his~~ the commanding officer's command or 1415
enlisted members subject to ~~his~~ the commanding officer's authority 1416
into arrest or confinement. 1417

(C) A commissioned officer or a warrant officer may be 1418
ordered apprehended or into arrest or confinement only by a 1419
commanding officer to whose authority ~~he~~ the commissioned officer 1420
or warrant officer is subject, by an order, oral or written, 1421
delivered in person or by another commissioned officer. The 1422
authority to order such persons apprehended or into arrest or 1423
confinement may not be delegated. 1424

(D) No person may be ordered apprehended or into arrest or 1425
confinement except for probable cause. 1426

(E) Nothing in this section shall be construed to limit the 1427
authority of persons authorized to apprehend offenders to secure 1428
the custody of an alleged offender until proper authority may be 1429
notified. 1430

Sec. 5924.10. (A) Any person subject to this code charged 1431
with an offense under this code shall be ordered into arrest or 1432

confinement, as circumstances may require; but when charged only 1433
with an offense normally tried by a summary court-martial, such 1434
person shall not ordinarily be placed into confinement. When any 1435
person subject to this code is placed into arrest or confinement 1436
prior to trial, ~~immediate steps shall be taken to inform him~~ the 1437
person shall be informed within seventy-two hours of the specific 1438
wrong of which ~~he~~ the person is accused and ~~to try him or to~~ 1439
~~dismiss the charges and release him~~ of the person's rights under 1440
this code. 1441

(B) Confinement ~~other than in a guard house~~, whether before, 1442
during, or after trial by a military court, shall be ~~executed, to~~ 1443
the maximum extent practicable, in civil jails or ~~prisons~~ 1444
~~designated by the governor or by such person as he may authorize~~ 1445
~~to act~~ like facilities. An order that an accused person be placed 1446
in pretrial confinement shall be reviewed by a military judge 1447
within seven days and if confirmed may be reviewed after that 1448
confirmation only on motion. 1449

Sec. 5924.11. (A) No ~~provost marshal, commander of a guard,~~ 1450
~~master at arms, warden~~ sheriff, keeper, or officer of a ~~city or~~ 1451
~~county jail or any other jail or prison designated under section~~ 1452
~~5924.10 of the Revised Code,~~ detention facility may refuse to 1453
receive or keep any prisoner committed to ~~his~~ the sheriff's, 1454
keeper's, or officer's charge, when the committing person 1455
furnishes a statement, signed by ~~him~~ the committing person, of the 1456
offense charged against the prisoner. 1457

(B) ~~Every commander of a guard, master at arms~~ A sheriff, 1458
~~warden, keeper, or officer of a city or county jail or of any~~ 1459
~~other jail or prison designated under section 5924.10 of the~~ 1460
~~Revised Code,~~ detention facility to whose charge a prisoner is 1461
committed, shall, within twenty-four hours after that commitment 1462
~~or as soon as he is relieved from guard,~~ report to the commanding 1463

officer of the prisoner the name of the prisoner, the offense 1464
charged against ~~him~~ the prisoner, and the name of the person who 1465
ordered or authorized the commitment. 1466

Sec. 5924.13. ~~Subject to section 5924.57 of the Revised Code,~~ 1467
~~no~~ No person, while being held for or after trial ~~or the result of~~ 1468
~~trial~~, may be subjected to punishment or penalty other than arrest 1469
or confinement upon the charges pending against ~~him~~, ~~nor shall~~ the 1470
person. The arrest or confinement imposed upon ~~him~~ the person 1471
shall not be any more rigorous than the circumstances require to 1472
insure ~~his~~ the person's presence, ~~but he~~. The person may be 1473
subjected to minor punishment during that period for infractions 1474
of discipline, ~~and may be required to perform such labor as may be~~ 1475
~~necessary for the policing and sanitation of his living quarters~~ 1476
~~and messing facilities and the area immediately adjacent thereto.~~ 1477
1478

Sec. 5924.14. (A) Under such regulations as may be prescribed 1479
under this code, a person on ~~active~~ state active duty ~~subject to~~ 1480
~~this code~~ or duty under Title 32 of the United States Code who is 1481
accused of an offense against civil authority may be delivered, 1482
upon request, to the civil authority for ~~trial~~ trial. 1483

(B) When delivery under this section is made to any civil 1484
authority of a person undergoing sentence of a court-martial, the 1485
delivery, if followed by conviction in a civil tribunal, 1486
interrupts the execution of the sentence of the court-martial, and 1487
the offender after having answered to the civil authorities for 1488
~~his~~ the offender's offense shall, upon the request of competent 1489
military authority, be returned to military custody for the 1490
completion of ~~his~~ the offender's sentence. 1491

Sec. 5924.15. (A) Under such regulations as the ~~governor~~ 1492
adjutant general may prescribe, ~~and under such additional~~ 1493

~~regulations as may be prescribed by the adjutant general of Ohio,~~ 1494
~~limitations may be placed on the powers granted by this section~~ 1495
~~with respect to the kind and amount of punishment authorized, the~~ 1496
~~categories of commanding officers and warrant officers exercising~~ 1497
~~command authorized to exercise those powers, the applicability of~~ 1498
~~this section to an accused who demands trial by court-martial, and~~ 1499
~~the kinds of courts-martial to which the case may be referred upon~~ 1500
~~such a demand. However, except in the case of a member attached~~ 1501
~~to, or embarked in a vessel, punishment may not be imposed upon~~ 1502
~~any person subject to this code under this section~~ a member of the 1503
organized militia if ~~such person~~ the member has, before the 1504
imposition of ~~such~~ the punishment, demanded trial by court-martial 1505
in lieu of ~~such~~ the punishment. Under similar regulations, rules 1506
may be prescribed with respect to the suspension of punishments 1507
authorized ~~hereunder~~ under this section. If authorized by 1508
regulations prescribed under this section, the governor or a 1509
general officer or officer of flag rank in command may delegate 1510
the powers of the governor or general officer under this section 1511
to a principal assistant. In all proceedings, the accused shall be 1512
allowed a reasonable period of time, normally not exceeding 1513
forty-eight hours, to reply to the notification of intent to 1514
impose punishment under this section. 1515

(B) Subject to the foregoing division (A) of this section, 1516
~~any commanding officer, and for the purposes of this section the~~ 1517
~~adjutant general of Ohio,~~ may, in addition to or in lieu of 1518
admonition or reprimand, impose one or more of the following 1519
~~disciplinary~~ punishments for minor offenses without the 1520
intervention of a court-martial: 1521

~~(A)(1)~~ (1) Upon officers of the commanding officer's command, any 1522
of the following: 1523

~~(1)(a)~~ (a) Restriction to certain specified limits, with or 1524
without suspension from duty, for not more than thirty ~~consecutive~~ 1525

days;	1526
(2)(b) If imposed by the governor, the adjutant general, the commanding <u>an officer of a force of the organized militia exercising general court-martial jurisdiction, a general officer, or the commanding general of a division flag officer, any of the following:</u>	1527 1528 1529 1530 1531
(a)(i) Arrest in quarters for not more than thirty consecutive days;	1532 1533
(b) Fine or forfeiture (ii) Forfeiture of not more than one-half of one month's pay per month for two months, or the sum a fine of one not more than two hundred fifty dollars, whichever is greater;	1534 1535 1536 1537
(e)(iii) Restriction to certain specified limits, with or without suspension from duty, for not more than sixty consecutive days;	1538 1539 1540
(d) Detention of not more than one half of one month's pay per month for three months, or the sum of two hundred twenty five dollars, whichever is greater.	1541 1542 1543
(B)(2) Upon other military personnel of the commanding officer's command, <u>any of the following:</u>	1544 1545
(1) If imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days;	1546 1547 1548
(2)(a) Correctional custody for not more than seven consecutive days;	1549 1550
(3) Fine or forfeiture (b) Forfeiture of not more than seven days' pay, or the sum of twenty five dollars, whichever is greater a fine of not more than one-quarter of one month's actual pay;	1551 1552 1553
(4)(c) Reduction to the next inferior pay grade, if the grade from which <u>the service member</u> demoted is within the promotion	1554 1555

authority of the officer imposing the reduction or any officer 1556
subordinate to the one who imposes the reduction; 1557

~~(5)(d)~~ Extra duties, including fatigue or other duties, for 1558
not more than fourteen consecutive days or for a total of thirty 1559
nonconsecutive days; 1560

~~(6)(e)~~ Restriction to certain specified limits, with or 1561
without suspension from duty, for not more than fourteen 1562
consecutive days; 1563

~~(7)~~ Detention of not more than fourteen days' pay, or the sum 1564
of fifty dollars, whichever is greater; 1565

~~(8)(f)~~ If imposed by an officer of the grade of major or 1566
lieutenant commander, or above, any of the following: 1567

~~(a)(i)~~ The punishment authorized under division (B)~~(1)(2)(a)~~ 1568
of this section; 1569

~~(b)(ii)~~ Correctional custody for not more than thirty 1570
consecutive days; 1571

~~(c)~~ Fine or forfeiture (iii) Forfeiture of not more than 1572
one-half of one month's pay per month for two months, or ~~the sum~~ 1573
~~of fifty dollars, whichever is greater~~ a fine of not more than 1574
one-half of one month's actual pay for two months; 1575

~~(d)(iv)~~ Reduction to the lowest or any intermediate pay 1576
grade, if the grade from which demoted is within the promotion 1577
authority of the officer imposing the reduction or any officer 1578
subordinate to the one who imposes the reduction, but an enlisted 1579
member in pay grade above E-4 may not be reduced more than ~~two~~ one 1580
pay grades grade; 1581

~~(e)(v)~~ Extra duties, including fatigue or other duties, for 1582
not more than forty-five ~~consecutive~~ days, which need not be 1583
consecutive, and for not more than two hours per day; 1584

~~(f)(vi)~~ Restriction to certain specified limits, with or 1585

without suspension from duty, for not more than sixty consecutive days, which need not be consecutive 1586
1587

~~(g) Detention of not more than one half of one month's pay per month for three months, or the sum of seventy five dollars, whichever is greater.~~ 1588
1589
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~~Detention of pay shall be for a stated period of not more than one year, but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, confinement on bread and water or diminished rations, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this section "correctional custody" is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court martial or civilian court.~~ 1591
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(C) No two or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. If any of those punishments are combined to run consecutively, there must be apportionment. For the purposes of this section, "correctional custody" means the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. 1607
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(D) An officer in charge may impose upon enlisted members assigned to the unit of which the officer is in charge such any of the punishments authorized under divisions ~~(B)(1)~~(A)(2)(a) to 1615
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~~(B)(7)(f)~~ of this section, ~~as that~~ the governor or adjutant 1618
general may specifically prescribe by regulation. 1619

~~(D)(E)~~ The officer who imposes the punishment authorized in 1620
~~divisions (A) or division~~ (B) of this section, or the officer's 1621
successor in command, may, at any time, suspend probationally any 1622
part or amount of the unexecuted punishment imposed and may 1623
suspend probationally a reduction in grade or a forfeiture or fine 1624
imposed under ~~divisions (A) or division~~ (B) of this section, 1625
whether or not executed. In addition, the officer who imposed the 1626
punishment may, at any time, remit or mitigate any part or amount 1627
of the unexecuted punishment imposed and may set aside in whole or 1628
in part the punishment, whether executed or unexecuted, and 1629
restore all rights, privileges, and property affected. The officer 1630
who imposed the punishment may also mitigate reduction in grade to 1631
forfeiture ~~or detention~~ of pay or a fine. When mitigating: 1632

~~(1) Arrest~~ arrest in quarters to restriction; 1633

~~(2) Confinement on bread and water or diminished rations to~~ 1634
~~correctional custody;~~ 1635

~~(3) Correctional custody or confinement on bread and water or~~ 1636
~~diminished rations to extra duties or restriction, or both; or~~ 1637

~~(4) Extra~~ extra duties to restriction; 1638

~~the,~~ the mitigated punishment shall not be for a greater period 1639
than the punishment mitigated. ~~When mitigating forfeiture of pay~~ 1640
~~to detention of pay, the amount of the detention shall not be~~ 1641
~~greater than the amount of the forfeiture.~~ When mitigating 1642
reduction in grade to fine or forfeiture ~~or detention~~ of pay, the 1643
amount of the fine or forfeiture ~~or detention~~ shall not be greater 1644
than the amount that could have been imposed initially under this 1645
section by the officer who imposed the punishment mitigated. 1646

~~(E)(F)~~ A person punished under this section who considers the 1647
punishment unjust or disproportionate to the offense may, through 1648

the proper channel, appeal to the next superior authority within 1649
seven calendar days. The appeal shall be promptly forwarded and 1650
decided, but the person punished may in the meantime be required 1651
to undergo the punishment adjudged. The superior authority may 1652
exercise the same powers with respect to the punishment imposed as 1653
may be exercised under division ~~(D)~~(E) of this section by the 1654
officer who imposed the punishment. Before acting on an appeal 1655
from a punishment of+ 1656

~~(1) Arrest in quarters for more than seven days;~~ 1657

~~(2) Correctional custody for more than seven days;~~ 1658

~~(3) Forfeiture of more than seven days' pay;~~ 1659

~~(4) Reduction of one or more pay grades from the fourth or a 1660
higher pay grade;~~ 1661

~~(5) Extra duties for more than fourteen days;~~ 1662

~~(6) Restriction for more than fourteen days; or~~ 1663

~~(7) Detention of more than fourteen days' pay;~~ 1664

any of the following, the authority who is to act on the appeal 1665
shall refer the case to a judge advocate or legal officer of the 1666
Ohio organized militia for consideration and advice, and may ~~se~~ 1667
also refer the case upon appeal from any punishment imposed under 1668
~~divisions (A) or~~ division (B) of this section: 1669

(1) Arrest in quarters for more than seven days; 1670

(2) Correctional custody for more than seven days; 1671

(3) Fine or forfeiture of more than seven days' pay; 1672

(4) Reduction of one or more pay grades from the fourth or a 1673
higher pay grade; 1674

(5) Extra duties for more than fourteen days. 1675

~~(F)~~(G) The imposition and enforcement of disciplinary 1676
punishment under this section for any act or omission is not a bar 1677

to trial by court-martial for a serious crime or offense growing 1678
out of the same act or omission, and not properly punishable under 1679
this section; ~~but the.~~ The fact that a ~~disciplinary~~ punishment has 1680
been enforced may be shown by the accused upon trial, and, when so 1681
shown, shall be considered in determining the measure of 1682
punishment to be adjudged in the event of a finding of guilty. 1683

~~(G)~~(H) The ~~governor or the~~ adjutant general may, by 1684
regulation, prescribe the form of records to be kept of 1685
proceedings under this section and may also prescribe that certain 1686
categories of those proceedings shall be in writing. 1687

~~(H)~~ The ~~punishments imposed pursuant to this section, except~~ 1688
~~fine and forfeiture of pay, shall not extend beyond the~~ 1689
~~termination of the duty status of the individual punished.~~ 1690

(I) A commanding officer may delegate authority to make a 1691
reduction in pay grade under division (B)(2)(c) of this section to 1692
the commanding officer's executive officer, deputy commander, vice 1693
commander, or principal assistant. 1694

Sec. 5924.16. (A) In the organized militia ~~not in federal~~ 1695
~~service, there are general, special, and summary courts-martial~~ 1696
~~constituted like similar courts of the army and the air force.~~ 1697
~~They have the jurisdiction and powers, except as to punishments,~~ 1698
~~and shall follow the forms and procedures provided for those~~ 1699
courts. General and special courts-martial are courts of record 1700
with original jurisdiction. 1701

(B) ~~The constitutions of the three kinds of courts-martial~~ 1702
~~are:~~ 1703

~~(1) General courts-martial, consisting~~ A general 1704
court-martial consists of one of the following: 1705

~~(A)~~(1) A military judge and not ~~less~~ fewer than five members; 1706
~~or~~ 1707

~~(B)(2)~~ Only a military judge, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves. 1708
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~~(2) Special courts martial, consisting.~~ 1713

(C) A special court-martial consists of one of the following: 1714

~~(A) not less than three~~ (1) Three or more members; ~~or~~ 1715

~~(B)(2)~~ A military judge and not ~~less~~ fewer than three members; ~~or~~ 1716
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~~(C)(3)~~ Only a military judge, if one has been detailed to the court, and the accused so requests in writing under the same conditions as those prescribed in division (B)(1)(b) of this section; 1718
1719
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1721

~~(3) Summary courts martial, consisting~~ before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves. 1722
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1726

(D) A summary court-martial consists of one commissioned officer in the grade of captain or above. 1727
1728

Sec. 5924.17. ~~Each force of the organized militia~~ The Ohio national guard has court-martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by ~~one force~~ the Ohio national guard over personnel of another ~~force~~ element of the organized militia shall be in accordance with regulations prescribed by the ~~governor~~ adjutant general. 1729
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Sec. 5924.18. (A) Subject to section 5924.17 of the Revised Code, general courts-martial have jurisdiction to try persons 1735
1736

subject to this code for any offense made punishable by this code 1737
and may, under ~~such~~ any limitations ~~as that~~ the governor may 1738
prescribe, adjudge any ~~punishment not forbidden by this code,~~ 1739
~~including the penalty of death when specifically authorized by~~ 1740
~~this code. General courts martial also have jurisdiction to try~~ 1741
~~any person who by the law of war is subject to trial by a military~~ 1742
~~tribunal and may adjudge any punishment permitted by the law of~~ 1743
~~war. A general court martial of the kind specified in division~~ 1744
~~(B)(1)(b) of section 5924.16 of the Revised Code does not have~~ 1745
~~jurisdiction to try any person for any offense for which the death~~ 1746
~~penalty may be adjudged unless the case has been previously~~ 1747
~~referred to trial as a noncapital case~~ of the following 1748
punishments: 1749

(1) A fine of not more than two thousand five hundred dollars 1750
or confinement for not more than three hundred sixty-five days; 1751

(2) Forfeiture of all pay and allowances; 1752

(3) Reprimand; 1753

(4) Dismissal and dishonorable discharge or a bad conduct 1754
discharge; 1755

(5) Reduction of a noncommissioned officer to the lowest or 1756
any intermediate rank; 1757

(6) Any combination of the foregoing punishments. 1758

(B) A general court-martial may not adjudge dismissal or 1759
dishonorable discharge unless a complete record of the proceedings 1760
and testimony is made, counsel having the qualifications 1761
prescribed under division (B) of section 5924.27 of the Revised 1762
Code is detailed to represent the accused, and a military judge is 1763
detailed to the trial. 1764

Sec. 5924.19. Subject to section 5924.17 of the Revised Code, 1765
special courts-martial ~~shall~~ have jurisdiction to try persons 1766

subject to this code for any ~~non-capital~~ offense for which they 1767
may be punished under this code. A special court-martial may 1768
adjudge any punishment a general court-martial may adjudge, except 1769
~~death, dishonorable discharge, dismissal, confinement for that a~~ 1770
special court-martial may not impose a fine of more than six 1771
~~months, hard labor without one thousand dollars,~~ confinement for 1772
more than ~~three months, forfeiture of pay exceeding two thirds pay~~ 1773
~~per month, or forfeiture of pay for more than six months~~ one 1774
hundred eighty days for a single offense, or dismissal or 1775
dishonorable discharge. A ~~bad-conduct discharge special~~ 1776
court-martial may not ~~be adjudged~~ adjudge a bad-conduct discharge 1777
unless a complete record of the proceedings and testimony ~~has been~~ 1778
is made, counsel having the qualifications prescribed under 1779
division (B) of section 5924.27 of the Revised Code ~~was~~ is 1780
detailed to represent the accused, and a military judge ~~was~~ is 1781
detailed to the trial. ~~In any case in which a military judge was~~ 1782
~~not detailed to the trial, except when due to physical conditions~~ 1783
~~or military exigencies, the convening authority shall make a~~ 1784
~~written statement, to be appended to the record, stating the~~ 1785
~~reason or reasons a military judge could not be detailed.~~ 1786

Sec. 5924.20. (A) Subject to section 5924.17 of the Revised 1787
Code, summary courts-martial have jurisdiction to try persons 1788
subject to this code, ~~except officers and warrant officers,~~ for 1789
any offense made punishable by this code. 1790

(B) No person with respect to whom summary courts-martial 1791
have jurisdiction may be brought to trial before a summary 1792
court-martial if ~~he~~ the person objects ~~thereto~~ to being brought to 1793
trial before a summary court-martial. If objection to trial by 1794
summary court-martial is made by an accused, trial may be ordered 1795
by special or general court-martial, as may be appropriate. 1796

(C) Summary courts-martial may, ~~under such limitations as the~~ 1797

~~governor may prescribe, adjudge punishment of a fine not forbidden~~ 1798
~~by this code, except death, dismissal, dishonorable or bad conduct~~ 1799
~~discharge, exceeding five hundred dollars, confinement for not~~ 1800
~~more than one month, hard labor without confinement for more than~~ 1801
~~forty five days, restriction to specified limits for more than two~~ 1802
~~months, or thirty days, forfeiture of not more than two-thirds of~~ 1803
~~one month's pay, and reduction to the lowest or any intermediate~~ 1804
~~pay grade. For enlisted members in pay grade above E-4, summary~~ 1805
~~courts-martial may not adjudge confinement or reduction except to~~ 1806
~~the next inferior pay grade.~~ 1807

Sec. 5924.21. The provisions of this code that confer 1808
jurisdiction on courts-martial do not deprive military 1809
commissions, provost courts, other military tribunals, or state or 1810
federal courts of concurrent jurisdiction with respect to 1811
offenders or offenses that by statute or by the law of war may be 1812
tried by military commissions, provost courts, other military 1813
tribunals, or state or federal courts. 1814

Sec. 5924.22. In the organized militia not in federal 1815
service, the governor, adjutant general, assistant adjutant 1816
general for army, or assistant adjutant general for air may 1817
convene general courts-martial may be convened by the governor. 1818

Sec. 5924.23. In the organized militia not in federal 1819
service, the commanding officer of a garrison, fort, post, camp, 1820
air base, auxiliary air base, or other place where troops are on 1821
duty, or of a division, brigade, regiment, battle group, wing, 1822
group, detached battalion, separate squadron, or other detached 1823
command, any commander authorized by regulation in the grade of 1824
colonel or a higher grade may convene special courts-martial. 1825
Special courts martial may also be convened by superior authority. 1826
When any such officer is an accuser, the court shall be convened 1827

~~by superior competent authority.~~ 1828

Sec. 5924.24. ~~(A) In the organized militia not in federal~~ 1829
~~service, the commanding officer of a garrison, fort, post, camp,~~ 1830
~~air base, auxiliary air base, or other place where troops are on~~ 1831
~~duty, or of a division, brigade, regiment, battle group, wing,~~ 1832
~~group, detached battalion, detached squadron, detached company, or~~ 1833
~~other detachment, any commander authorized by regulation in the~~ 1834
~~grade of lieutenant colonel or a higher grade may convene a~~ 1835
~~summary court-martial consisting of one commissioned officer. The~~ 1836
~~proceedings shall be informal.~~ 1837

~~(B) When only one commissioned officer is present with a~~ 1838
~~command or detachment he shall be the summary court martial of~~ 1839
~~that command or detachment and shall hear and determine all~~ 1840
~~summary court martial cases brought before him. Summary~~ 1841
~~courts martial may, however, be convened in any case by superior~~ 1842
~~competent authority when considered desirable by him.~~ 1843

Sec. 5924.25. (A) Any commissioned officer ~~of or on~~ in a duty 1844
~~with the organized militia status~~ is eligible to serve on all 1845
courts-martial for the trial of any person who may lawfully be 1846
brought before such courts for ~~trial~~ trial. 1847

(B) Any warrant officer ~~of or on~~ in a duty with the organized 1848
~~militia status~~ is eligible to serve on general and special 1849
courts-martial for the trial of any person, other than a 1850
commissioned officer, who may lawfully be brought before such 1851
courts for ~~trial~~ trial. 1852

(C)(1) Any enlisted member of the organized militia in a duty 1853
status who is not a member of the same unit as the accused is 1854
eligible to serve on general and special courts-martial for the 1855
trial of any enlisted member of the organized militia who may 1856
lawfully be brought before such courts for trial, ~~but he shall~~ 1857

~~serve as a member of a court only~~ if, before the conclusion of a 1858
session called by the military judge ~~under division (A) of section~~ 1859
~~5924.39 of the Revised Code~~ or, in the absence of ~~such~~ a session 1860
called by the military judge, before the court is assembled for 1861
the trial of the accused, the accused personally has requested in 1862
writing that enlisted members serve on it. After such a request, 1863
the accused may not be tried by a general or special 1864
court-martial, the membership of which does not include enlisted 1865
members in a number comprising at least one-third of the total 1866
membership of the court, unless eligible members cannot be 1867
obtained on account of physical conditions or military exigencies. 1868
If ~~such~~ enough enlisted members cannot be obtained, the court may 1869
be assembled and trial held without them, but the convening 1870
authority shall make a detailed written statement, to be appended 1871
to the record, stating why they could not be obtained. 1872

(2) ~~In~~ As used in division (C) of this section, ~~the word~~ 1873
"unit" means any regularly organized body of the organized militia 1874
not larger than a company, a squadron, a division of the naval 1875
militia, or a body corresponding to one of them. 1876

(D)(1) ~~When~~ If it can be avoided, ~~no~~ a person subject to this 1877
code shall not be tried by a court-martial, any member of which is 1878
junior to ~~him~~ the person in rank or grade. 1879

(2) When convening a court-martial, the convening authority 1880
shall detail as members ~~thereof~~ such of the court-martial members 1881
~~as~~ of the organized militia who, in ~~his~~ the convening authority's 1882
opinion, are best qualified for the duty by reason of age, 1883
education, training, experience, length of service, and judicial 1884
temperament. No member of the organized militia is eligible to 1885
serve as a member of a general or special court-martial ~~when he~~ if 1886
the member of the organized militia is the accuser or a witness 1887
for the prosecution or has acted as investigating officer or as 1888
counsel in the same case. ~~If within the command of the convening~~ 1889

~~authority there is present and not otherwise disqualified a 1890
commissioned officer who is a member of the bar of the state and 1891
of appropriate rank, the convening authority shall appoint him as 1892
president of a special court martial. Although this requirement is 1893
binding on the convening authority, failure to meet it in any case 1894
does not divest a military court of jurisdiction. 1895~~

Sec. 5924.26. (A) ~~The authority convening a~~ A military judge 1896
~~shall be detailed to each general court martial shall, and,~~ 1897
~~subject to regulations promulgated by the governor, the authority~~ 1898
~~convening a~~ and ~~special court-martial may, detail a.~~ A military 1899
~~judge to~~ shall ~~preside over each open session of the court-martial~~ 1900
~~to which the judge has been detailed.~~ 1901

(B) A military judge shall be a commissioned officer of the 1902
organized militia ~~who is a member~~ in good standing ~~of the bar of~~ 1903
~~this state, or a member of the bar of a federal court, and who is~~ 1904
~~certified to be qualified for such duty as a military judge by the~~ 1905
~~state judge advocate.~~ 1906

(C) ~~The military judge of a general or special court-martial~~ 1907
~~shall be designated by the state judge advocate or his designee~~ 1908
~~for detail by the convening authority. Unless the court-martial~~ 1909
~~was convened by the governor or the adjutant general, neither the~~ 1910
~~convening authority nor his~~ the convening authority's staff, other 1911
than the state judge advocate or deputy state judge advocate, 1912
~~shall prepare or review any report concerning the effectiveness,~~ 1913
~~fitness, or efficiency of the military judge so detailed which~~ 1914
~~relates to his~~ judge's ~~performance of duty as a military judge. A~~ 1915
~~commissioned officer who is certified as a military judge of a~~ 1916
~~general court martial may perform duties other than those relating~~ 1917
~~to his being a military judge of a general court martial when such~~ 1918
~~duties are assigned to him by or with the approval of the state~~ 1919
~~judge advocate or his designee.~~ 1920

(D) No person is eligible to act as a military judge in a case if ~~he~~ the person is the accuser, is a witness for the prosecution, has acted as investigating officer, or is a counsel in the same case.

(E) The military judge of a court-martial may not consult with the members of the court, except in the presence of the accused, trial counsel, and defense counsel, nor may ~~he~~ the military judge vote with the members of the court.

(F) A trial counsel, defense counsel, military judge, legal officer, summary court officer, or any other person from any one component of the organized militia certified by the state judge advocate to perform legal functions under this code may perform those functions, as needed, for any other component of the organized militia.

Sec. 5924.27. (A) ~~For each general and special court martial the authority convening the court~~ The state judge advocate shall detail trial counsel ~~and,~~ defense counsel, and ~~such~~ assistants ~~as~~ he that the state judge advocate considers appropriate. No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, ~~or, unless expressly requested by the accused, as~~ defense counsel, ~~or~~ assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(B) Trial counsel or defense counsel detailed for a general court-martial must be both of the following:

(1) ~~Must be a person who is a~~ A member in good standing of the bar of ~~the highest court of this state, or a member of the bar of a federal court, or a law specialist; and~~

(2) ~~Must be certified~~ Certified as competent to perform ~~such~~ 1951
the duties of trial counsel or defense counsel in a general 1952
court-martial by the state judge advocate. 1953

~~(C) In the case of a special court martial, the accused shall~~ 1954
~~be afforded the opportunity to be represented at the trial by~~ 1955
~~counsel having the qualifications prescribed by division (B) of~~ 1956
~~this section. If counsel having such qualifications cannot be~~ 1957
~~obtained because of physical conditions or military exigencies,~~ 1958
~~the court may be convened and the trial held, but the convening~~ 1959
~~authority shall make a detailed written statement explaining the~~ 1960
~~reasons, which shall be appended to the record.~~ 1961

Sec. 5924.28. Under such regulations as the ~~governor~~ adjutant 1962
general may prescribe, the convening authority of a general or 1963
special court-martial ~~or court of inquiry~~ shall detail or employ 1964
qualified court reporters, who shall record the proceedings of and 1965
testimony taken before that court. ~~Under like regulations the~~ 1966
~~convening authority of a military court, and~~ may detail or employ 1967
interpreters, who shall interpret for the court. 1968

Sec. 5924.29. (A) No member of a general or special 1969
court-martial shall be absent or excused after the court has been 1970
assembled for the trial of the accused except for physical 1971
disability, as a result of a challenge, or by order of the 1972
convening authority for good cause. 1973

(B) Whenever a general court-martial, other than a general 1974
court-martial composed of a military judge only, is reduced below 1975
five members, the trial may not proceed unless the convening 1976
authority details new members sufficient in number to provide not 1977
~~less~~ fewer than five members. When the new members have been 1978
sworn, the trial may proceed with the new members present after 1979
the recorded evidence previously introduced before the members of 1980

the court has been read to the court in the presence of the 1981
military judge, the accused, and counsel for both sides. 1982

(C) Whenever a special court-martial, other than a special 1983
court-martial composed of a military judge only, is reduced below 1984
three members, the trial may not proceed unless the convening 1985
authority details new members sufficient in number to provide not 1986
~~less~~ fewer than three members. When the new members have been 1987
sworn, the trial shall proceed with the new members present as if 1988
no evidence had previously been introduced at the trial, unless a 1989
verbatim record of the evidence previously introduced before the 1990
members of the court or a stipulation thereof is read to the court 1991
in the presence of the military judge, if any, the accused, and 1992
counsel for both sides. 1993

(D) If the military judge of a court-martial composed of a 1994
military judge only is unable to proceed with the trial because of 1995
physical disability, as a result of a challenge, or for other good 1996
cause, the trial shall proceed, ~~subject to any applicable~~ 1997
~~conditions of division (B)(1)(b) or division (B)(2)(c) of section~~ 1998
~~5924.16 of the Revised Code,~~ after the detail of a new military 1999
judge as if no evidence had previously been introduced, unless a 2000
verbatim record of the evidence previously introduced or a 2001
stipulation thereof is read in court in the presence of the new 2002
military judge, the accused, and counsel for both sides. 2003

Sec. 5924.30. (A) Charges and specifications shall be signed 2004
by a person subject to this code under oath before a ~~person~~ 2005
commissioned officer of the organized militia authorized ~~by this~~ 2006
~~code~~ to administer oaths and shall state both of the following: 2007

(1) That the signer has personal knowledge of, or has 2008
investigated, the matters set forth ~~therein~~ in the charges and 2009
specifications; and 2010

(2) That ~~they~~ those matters are true in fact to the best of 2011

~~his~~ the person's knowledge and belief. 2012

(B) Upon the preferring of charges, the proper authority 2013
shall take immediate steps to determine ~~what~~ the disposition that 2014
should be made ~~thereof~~ of the charges in the interest of justice 2015
and discipline, and the person accused shall be informed of the 2016
charges ~~against him~~ as soon as practicable. 2017

Sec. 5924.31. (A) No person subject to this code may compel 2018
any other person to incriminate ~~himself~~ the other person or to 2019
answer any question, the answer to which may tend to incriminate 2020
~~him~~ the other person. 2021

(B) No person subject to this code may interrogate, or 2022
request any statement from an accused or a person suspected of an 2023
offense, without first informing ~~him~~ the accused or person 2024
suspected of the nature of the accusation and advising ~~him~~ the 2025
accused or person suspected that ~~he~~ the accused or person 2026
suspected does not have to make any statement regarding the 2027
offense of which ~~he~~ the accused or person suspected is accused or 2028
suspected and that any statement made by ~~him~~ the accused or person 2029
suspected may be used as evidence against ~~him~~ the accused or 2030
person suspected in a trial by court-martial. 2031

(C) No person subject to this code may compel any other 2032
person to make a statement or produce evidence before any ~~military~~ 2033
~~tribunal~~ court-martial if the statement or evidence is not 2034
material to the issue and may tend to degrade ~~him~~ the other 2035
person. 2036

(D) No statement obtained from any person in violation of 2037
this section, or through the use of coercion, unlawful influence, 2038
or unlawful inducement may be received in evidence against ~~him~~ the 2039
person in a trial by court-martial. 2040

Sec. 5924.32. (A) No charge or specification may be referred 2041

to a general court-martial for trial until a thorough and 2042
impartial investigation of all the matters set forth ~~therein~~ in 2043
the charge or specification has been made. This investigation 2044
shall include inquiry as to the truth of the matter set forth in 2045
the charges, consideration of the form of charges, and a 2046
recommendation as to the disposition ~~which~~ that should be made of 2047
the case in the interest of justice and discipline. 2048

(B) The accused shall be advised of the charges against ~~him~~ 2049
the accused and of ~~his~~ the accused's right to be represented at 2050
that investigation by counsel. Upon ~~his~~ the accused's own request 2051
~~he, the accused~~ shall be represented by civilian counsel if 2052
provided by ~~him~~ the accused at the accused's own cost, or by 2053
military counsel of ~~his~~ the accused's own selection if such 2054
counsel is reasonably available, or by counsel detailed by the 2055
officer exercising general court-martial jurisdiction over the 2056
command. At that investigation full opportunity shall be given to 2057
the accused to cross-examine witnesses against ~~him~~ the accused if 2058
they are available and to present anything ~~he~~ the accused may 2059
desire in ~~his~~ the accused's own behalf, either in defense or 2060
mitigation, and the investigating officer shall examine reasonably 2061
available witnesses requested by the accused. If the charges are 2062
forwarded after the investigation, they shall be accompanied by a 2063
statement of the substance of the testimony taken on both sides, 2064
and a copy ~~thereof~~ of that statement shall be given to the 2065
accused. 2066

(C) If an investigation of the subject matter of an offense 2067
has been conducted before the accused is charged with the offense, 2068
and if the accused was present at the investigation and afforded 2069
the opportunities for representation, cross-examination, and 2070
presentation prescribed in division (B) of this section, no 2071
further investigation of that charge is necessary under this 2072
section unless it is demanded by the accused after ~~he~~ the accused 2073

is informed of the charge. A demand for further investigation 2074
entitles the accused to recall witnesses for further 2075
cross-examination and to offer any new evidence in ~~his~~ the 2076
accused's own behalf. 2077

(D) The requirements of this section are binding on all 2078
persons administering this code but failure to follow them does 2079
not divest a military court of jurisdiction. 2080

Sec. 5924.33. When a person is held for trial by general 2081
court-martial, the commanding officer shall, ~~within eight days~~ not 2082
later than the eighth day after the accused is ordered into arrest 2083
or confinement, ~~if practicable~~, forward the charges, together with 2084
the investigation and allied papers, to the ~~governor~~ general 2085
court-martial convening authority. If that is not practicable, ~~he~~ 2086
the commanding officer shall report in writing to the ~~governor~~ 2087
convening authority the reasons for delay. 2088

Sec. 5924.34. (A) Before directing the trial of any charge by 2090
general court-martial, the convening authority shall refer it to 2091
the ~~state~~ convening authority's staff judge advocate or legal 2092
officer for consideration and advice. The convening authority may 2093
not refer a charge to a general court-martial for trial unless ~~he~~ 2094
the convening authority has found that the charge alleges an 2095
offense under this code and is warranted by evidence indicated in 2096
the report of the investigation. 2097

(B) If the charges or specifications are not formally correct 2098
or do not conform to the substance of the evidence contained in 2099
the report of the investigating officer, formal corrections and 2100
such changes in the charges and specifications as are needed to 2101
make them conform to the evidence may be made. 2102

Sec. 5924.35. The trial counsel to whom court-martial charges 2103
are referred for trial shall cause to be served upon the accused a 2104

copy of the charges upon which trial is to be had. ~~In~~ Except in 2105
time of ~~peace~~ declared war, no person may, against ~~his~~ the 2106
person's objection, be brought to trial or be required to 2107
participate ~~by himself~~ alone or with counsel in a session called 2108
by the military judge ~~under division (A) of section 5924.39 of the~~ 2109
~~Revised Code~~, in a general or special court-martial case within a 2110
~~period of five days~~ twenty-four hours after the service of charges 2111
upon him, ~~or in a special court martial within a period of three~~ 2112
~~days after the service of the charges upon him~~ the person. 2113

Sec. 5924.36. The procedure, including modes of proof, in 2114
cases before military courts ~~and other military tribunals~~ may be 2115
prescribed by the ~~governor~~ adjutant general by regulations, ~~which~~ 2116
that shall, so far as he ~~the~~ adjutant general considers 2117
practicable, apply the principles of law and the rules of evidence 2118
generally recognized in the trial of criminal cases in the courts 2119
of ~~the~~ this state, but ~~which~~ that may not be contrary to or 2120
inconsistent with this code. 2121

Sec. 5924.37. (A) No authority convening a general, special, 2122
or summary court-martial, ~~nor any~~ other commanding officer, or 2123
officer serving on the staff ~~thereof~~, of a convening authority or 2124
other commanding officer may censure, reprimand, or admonish the 2125
court or any member, military judge, or counsel ~~thereof~~ of the 2126
court, with respect to the findings or sentence adjudged by the 2127
court, ~~or with respect to any other exercise of its or~~ his the 2128
member's, military judge's, or counsel's functions in the conduct 2129
of the proceeding. No person subject to this code may attempt to 2130
coerce or, by any unauthorized means, influence the action of the 2131
court-martial or any other military tribunal or any member ~~thereof~~ 2132
of the court-martial or military tribunal in reaching the findings 2133
or sentence in any case, or the action of any convening, 2134
approving, or reviewing authority with respect to ~~his~~ the 2135

authority's judicial acts. This division does not apply to: 2136

(1) General instructional or informational courses in 2137
military justice, if such courses are designed solely for the 2138
purpose of instructing members of a command in the substantive and 2139
procedural aspects of courts-martial; 2140

(2) Statements and instructions given in open court by the 2141
military judge, the president of a special court-martial, or 2142
counsel. 2143

(B) In the preparation of ~~an effectiveness, a fitness, or~~ 2144
~~efficiency evaluation, or performance report,~~ or any other report 2145
or document used in whole or in part for the purpose of 2146
determining whether a member of the organized militia is qualified 2147
to be advanced in grade, ~~or~~ in determining the assignment or 2148
transfer of a member of the organized militia, or in determining 2149
whether a member of the organized militia should be retained ~~in an~~ 2150
~~active status on duty,~~ no person subject to this code may, ~~in~~ 2151
~~preparing any such report~~ do either of the following: 2152

(1) Consider or evaluate the performance of duty of ~~any such~~ 2153
the member as a member of a court-martial; 2154

(2) Give a less favorable rating or evaluation of any member 2155
of the organized militia because of the zeal with which ~~such the~~ 2156
member, as counsel, represented any accused before a 2157
court-martial. 2158

Sec. 5924.38. (A) The trial counsel of a general or special 2159
court-martial shall prosecute in the name of the state, and shall, 2160
under the direction of the court, prepare the record of the 2161
proceedings. 2162

(B) The accused has the right to be represented in ~~his the~~ 2163
accused's defense before a general or special court-martial by 2164
civilian counsel if provided by ~~him~~ the accused at the accused's 2165

own cost, ~~or~~ by military counsel of ~~his~~ the accused's own 2166
selection if reasonably available, or by ~~the~~ detailed military 2167
defense counsel ~~detailed under section 5924.27 of the Revised~~ 2168
~~Code~~. Should the accused have civilian counsel of ~~his~~ the 2169
accused's own selection, the defense counsel, and any assistant 2170
defense counsel, ~~if any~~, who were detailed, shall, if the accused 2171
so desires, act as ~~his~~ the accused's associate counsel; otherwise 2172
they shall be excused by the military judge ~~or by the president of~~ 2173
~~a court martial without a military judge.~~ 2174

(C) In every court-martial proceeding, the defense counsel 2175
may, in the event of conviction, forward for attachment to the 2176
record of proceedings a brief of such matters as ~~he~~ the defense 2177
counsel feels should be considered in behalf of the accused on 2178
review, including any objection to the contents of the record 2179
which ~~he~~ the defense counsel considers appropriate. 2180

(D) An assistant trial counsel of a ~~general~~ court-martial 2181
may, under the direction of the trial counsel or when ~~he~~ the 2182
assistant trial counsel is qualified to be a trial counsel ~~as~~ 2183
~~required by section 5924.27 of the Revised Code~~, perform any duty 2184
imposed by law, regulation, or the custom of the service upon the 2185
trial counsel ~~of the court. An assistant trial counsel of a~~ 2186
~~special court martial may perform any duty of the trial counsel.~~ 2187

(E) An assistant defense counsel of a general or special 2188
court-martial may, under the direction of the defense counsel or 2189
when ~~he~~ the assistant defense counsel is qualified to be the 2190
defense counsel ~~as required by section 5924.27 of the Revised~~ 2191
~~Code~~, perform any duty imposed by law, regulation, or the custom 2192
of the service upon counsel for the accused. 2193

Sec. 5924.39. (A) At any time after the service of charges 2194
~~which~~ that have been referred for trial to a court-martial 2195
composed of a military judge and members, the military judge may, 2196

subject to section 5924.35 of the Revised Code, call the court 2197
into session without the presence of the members for the following 2198
purposes: 2199

(1) Hearing and determining motions raising defenses or 2200
objections ~~which~~ that are capable of determination without trial 2201
of the issues raised by a plea of not guilty; 2202

(2) Hearing and ruling upon any matter ~~which~~ that may be 2203
ruled upon by the military judge under this code, whether or not 2204
the matter is appropriate for later consideration or decision by 2205
the members of the court; 2206

(3) If permitted by regulations prescribed by the governor, 2207
holding the arraignment and receiving the pleas of the accused; 2208

(4) Performing any other procedural function ~~which~~ that may 2209
be performed by the military judge under this code or under ~~rules~~ 2210
regulations prescribed pursuant to section 5924.36 of the Revised 2211
Code and ~~which~~ that does not require the presence of the members 2212
of the court. 2213

These proceedings shall be conducted in the presence of the 2214
accused, the defense counsel, and the trial counsel, and shall be 2215
made a part of the record. 2216

(B) When the members of a court-martial deliberate or vote, 2217
only the members may be present. All other proceedings, including 2218
any other consultation of the members of the court with counsel or 2219
the military judge, shall be made a part of the record and shall 2220
be in the presence of the accused, the defense counsel, the trial 2221
counsel, and, in cases in which a military judge has been detailed 2222
to the court, the military judge. 2223

Sec. 5924.41. (A) The military judge and members of a general 2224
or special court-martial may be challenged by the accused or the 2225
trial counsel for cause stated to the court. The military judge 2226

or, if none, the court, shall determine the relevancy and validity 2227
of challenges for cause, and may not receive a challenge to more 2228
than one person at a time. Challenges by the trial counsel shall 2229
ordinarily be presented and decided before those by the accused 2230
are offered. 2231

(B) Each accused and the trial counsel is entitled to one 2232
peremptory challenge, but the military judge may not be ~~challenged~~ 2233
challenged except for cause. 2234

(C) If the exercise of a peremptory challenge reduces the 2235
number of members of a court-martial below the minimum required 2236
under section 5924.16 of the Revised Code, any remaining 2237
peremptory challenges shall be exercised or waived before 2238
additional members are detailed. 2239

(D) Additional members detailed to a court-martial may be 2240
challenged for cause as provided in division (A) of this section. 2241
After challenges for cause against the additional members are 2242
presented and decided, each accused and trial counsel is entitled 2243
to one peremptory challenge against members not previously 2244
challenged peremptorily. 2245

Sec. 5924.42. (A) Before performing their respective duties, 2246
military judges, interpreters, members of general and special 2247
courts-martial, the trial counsel, the assistant trial counsel, 2248
the defense counsel, the assistant defense counsel, and reporters 2249
shall take an oath or affirmation to perform their duties 2250
faithfully. ~~The form of the oath or affirmation, the time and~~ 2251
~~place of the taking thereof, the manner of recording, and whether~~ 2252
~~the oath shall be taken for all cases in which these duties are to~~ 2253
~~be performed or for a particular case, shall be as prescribed in~~ 2254
~~regulations promulgated by the governor. These regulations may~~ 2255
~~provide that an oath or affirmation to faithfully perform duties~~ 2256
~~as a military judge, trial counsel, assistant trial counsel,~~ 2257

~~defense counsel, or assistant defense counsel may be taken at any~~ 2258
~~time by any judge advocate, law specialist, or other person~~ 2259
~~certified to be qualified or competent for the duty, and if such~~ 2260
~~oath is taken it need not again be taken at the time the judge~~ 2261
~~advocate, law specialist, or other person is detailed to that duty~~ 2262
in the presence of the accused and shall be substantially as 2263
follows: 2264

(1) For a member of the court: 2265

"You,, do swear (or affirm) that you will 2266
faithfully perform all the duties incumbent upon you as a member 2267
of this court; that you will faithfully and impartially try, 2268
according to the evidence, your conscience, and the laws and 2269
regulations provided for trials by courts-martial, the case of 2270
(the) (each) accused now before this court; and that if any doubt 2271
should arise not explained by the laws and regulations, then 2272
according to the best of your understanding and the customs of the 2273
service in like cases; that you will not divulge the findings or 2274
sentence in any case until they shall have been duly announced by 2275
the court; and that you will not disclose or discover the vote or 2276
opinion of any particular member of the court upon a challenge or 2277
upon the findings or sentence unless required to do so before a 2278
court of justice in due course of law. So help you God (or under 2279
penalty of perjury)." 2280

(2) For a military judge: 2281

"You,, do swear (or affirm) that you will 2282
faithfully and impartially perform, according to your conscience 2283
and the laws and regulations provided for trials by 2284
courts-martial, all the duties incumbent upon you as military 2285
judge of this court; that if any doubt should arise not explained 2286
by the laws and regulations, then according to the best of your 2287
understanding and the customs of the service in like cases; and 2288
that you will not divulge the findings or sentence in any case 2289

until they shall have been duly announced by the court. So help 2290
you God (or under penalty of perjury)." 2291

(3) For trial counsel and assistant trial counsel: 2292

"You,, do swear (or affirm) that you will 2293
faithfully perform the duties of trial counsel and will not 2294
divulge the findings or sentence of the court to any but the 2295
proper authority until they shall be duly disclosed. So help you 2296
God (or under penalty of perjury)." 2297

(4) For defense counsel and assistant defense counsel: 2298

"You,, do swear (or affirm) that you will 2299
faithfully perform the duties of defense counsel and will not 2300
divulge the findings or sentence of the court to any but the 2301
proper authority until they shall be duly disclosed. So help you 2302
God (or under penalty of perjury)." 2303

(5) For a reporter or interpreter: 2304

"You,, do swear (or affirm) that you will 2305
faithfully perform the duties of reporter (or interpreter) to this 2306
court. So help you God (or under penalty of perjury)." 2307

(B) Each witness before a ~~military court~~ court-martial shall 2308
be examined on oath or affirmation. The presiding officer shall 2309
administer an oath or affirmation in substantially the following 2310
form: 2311

"You,, do swear (or affirm) that the evidence you 2312
shall give in the case now in hearing shall be the truth, the 2313
whole truth, and nothing but the truth. So help you God (or under 2314
penalty of perjury)." 2315

Sec. 5924.43. (A) A ~~person charged with desertion or absence~~ 2316
~~without leave in time of war, or with aiding the enemy or with~~ 2317
~~mutiny, or with murder, may be tried and punished at any time~~ 2318
~~without limitation.~~ 2319

~~(B) Except as otherwise provided in this section, a person charged with desertion in time of peace or any of the offenses punishable under sections 5924.119 to 5924.132 of the Revised Code, is not liable to be tried by court martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court martial jurisdiction over the command.~~ 2320-2326

~~(C) Except as otherwise provided in this section, a person charged with any an offense punishable under this code is not liable to be tried by court-martial or punished under section 5924.15 of the Revised Code if the offense was committed more than ~~two~~ four years before the receipt of sworn charges and specifications by an officer exercising ~~summary~~ court-martial jurisdiction over the command ~~or before the imposition of punishment under section 5924.15 of the Revised Code.~~~~ 2327-2334

~~(D)(B) Periods in which the accused was absent from ~~territory~~ in which the state has the authority to apprehend him, ~~or is~~ in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.~~ 2335-2339

Sec. 5924.44. (A) No person may, ~~without his consent,~~ be tried a second time in any ~~military or civil court~~ court-martial of ~~the~~ this state for the same offense. 2340-2342

(B) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial ~~in~~ the sense for purposes of this section until the finding of guilty has become final after review of the case has been fully completed. 2343-2347

(C) A proceeding ~~which~~ that, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for ~~failure~~ 2348-2350

want of available evidence or witnesses without any fault of the 2351
accused is a trial ~~in the sense~~ for purposes of this section. 2352

Sec. 5924.45. (A) ~~If an An~~ accused after arraignment ~~makes an~~ 2353
~~irregular pleading, or after a plea of guilty sets up matter~~ 2354
~~inconsistent with the plea, or if it appears that he has entered~~ 2355
~~the plea of guilty improvidently or through lack of understanding~~ 2356
~~of its meaning and effect, or if he fails or refuses to may plead,~~ 2357
~~a plea of not guilty shall be entered in the record, and the court~~ 2358
~~shall proceed as though he had pleaded not guilty.~~ 2359

~~(B) A plea of guilty by the accused may not be accepted to~~ 2360
~~any charge or specification alleging an offense for which the~~ 2361
~~death penalty may be adjudged. If a plea of guilty has been~~ 2362
~~accepted by the military judge or by a court martial without a~~ 2363
~~military judge, a finding of guilty, if permitted by regulations~~ 2364
~~promulgated by the governor, shall be entered immediately without~~ 2365
~~vote and shall constitute the finding of the court. If the plea of~~ 2366
~~guilty is withdrawn prior to announcement of the sentence, the~~ 2367
~~proceedings shall continue as though the accused had pleaded, not~~ 2368
~~guilty by reason of insanity, guilty, or, with the consent of the~~ 2369
~~court, no contest. A plea of not guilty by reason of insanity~~ 2370
~~shall be made in writing by either the accused or the accused's~~ 2371
~~attorney. All other pleas may be made orally. The pleas of not~~ 2372
~~guilty and not guilty by reason of insanity may be joined.~~ 2373

(B) If an accused refuses to plead, the court shall enter a 2374
plea of not guilty on behalf of the accused. 2375

(C) Before accepting a plea of guilty, the military judge 2376
shall address the accused personally and inform the accused of, 2377
and determine that the accused understands, all of the following: 2378

(1) The nature of the offense to which the plea is offered 2379
and the maximum possible penalty provided by law; 2380

(2) In a general or special court-martial, if the accused is not represented by counsel, that the accused has the right to be represented by counsel at every stage of the proceedings; 2381
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(3) That the accused has the right to plead not guilty or to persist in that plea if already made, that the accused has the right to be tried by a court-martial, and that at trial the accused has the right to confront and cross-examine witnesses against the accused and the right against self-incrimination. 2384
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(4) That if the accused pleads guilty, there will not be a trial of any kind as to those offenses to which the accused has so pleaded and that by pleading guilty the accused waives the rights described in division (C)(3) of this section; 2389
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(5) That, if the accused pleads guilty, the military judge will question the accused about the offenses to which the accused has pleaded guilty, and that, if the accused answers the questions under oath, on the record, and in the presence of counsel, the accused's answers may later be used against the accused in a prosecution for perjury or false statement. 2393
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(D) The military judge shall not accept a plea of guilty without first addressing the accused personally and determining that the plea is voluntary and not the result of fear, threats, or promises. The military judge shall also inquire as to whether the accused's willingness to plead guilty results from prior discussions between the convening authority, a representative of the convening authority, or trial counsel and the accused or defense counsel. 2399
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(E) The military judge shall not accept a plea of guilty without making an inquiry of the accused that satisfies the military judge that there is a factual basis for the plea. The accused shall be questioned under oath about the offenses charged. 2407
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(F) When a negotiated plea of guilty or no contest to one or 2411

more offenses charged or to one or more other or lesser offenses 2412
is offered, the underlying agreement upon which the plea is based 2413
shall be stated on the record in open court. 2414

(G) If the court refuses to accept a plea of guilty or no 2415
contest, the court shall enter a plea of not guilty on behalf of 2416
the accused, and neither plea shall be admissible in evidence or 2417
be the subject of comment by the trial counsel or court. 2418

(H) The defense of not guilty by reason of insanity must be 2419
pleaded at the time of arraignment, except that the court for good 2420
cause shown shall permit a plea of not guilty by reason of 2421
insanity to be entered at any time before trial. 2422

(I) A motion to withdraw a plea of guilty or no contest may 2423
be made only before sentence is imposed, but to correct manifest 2424
injustice the court after sentence may set aside the judgment of 2425
conviction and permit the accused to withdraw the plea. 2426

(J) An accused who is found guilty after pleading guilty 2427
waives any objection, whether or not previously raised, relating 2428
to the factual issue of guilt of the offense to which the plea was 2429
made. 2430

Sec. 5924.46. (A) The trial counsel, the defense counsel, and 2431
the court-martial shall have equal opportunity to obtain witnesses 2432
and other evidence in accordance with such regulations as the 2433
governor adjutant general may prescribe. 2434

~~(B) The president of a court martial or a summary court~~ 2435
~~officer may:~~ 2436

~~(1) Issue a warrant for the arrest of any accused person who,~~ 2437
~~having been served with a warrant and a copy of the charges,~~ 2438
~~disobeys a written order by the convening authority to appear~~ 2439
~~before the court;~~ 2440

~~(2) Issue subpoenas duces tecum and other subpoenas;~~ 2441

~~(3) Enforce by attachment the attendance of witnesses and the
production of books and papers; and~~ 2442
2443

~~(4) Sentence for refusal to be sworn or to answer, as
provided in actions before civil courts of the state.~~ 2444
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~~(C) Process issued in court-martial cases to compel witnesses
to appear and testify and to compel the production of other
evidence shall be substantially similar to process that may be
issued by the courts of this state in criminal cases and shall run
to any part of the state.~~ 2446
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Sec. 5924.47. ~~(A) Any person not subject to this code who:~~ 2451

~~(1) Has has been duly subpoenaed to appear as a witness or to
produce books and records before a military court or before any
military or civil officer designated to take a deposition to be
read in evidence before ~~such~~ a military court;~~ 2452
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~~(2) Has or has been duly paid or tendered the fees and
mileage of a witness at the rates provided for under section
119.094 of the Revised Code; and~~ 2456
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~~(3) Willfully who willfully neglects or refuses to appear, or
refuses to qualify as a witness or to testify or to produce any
evidence ~~which~~ that the person may have been legally subpoenaed to
produce; ~~is guilty of an offense against the state and,~~ may be
punished for contempt in the ~~same~~ manner ~~as if committed before~~
~~civil courts of the state~~ provided for in Chapter 2705. of the
Revised Code. 2459
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Sec. 5924.48. A military court, in the manner provided for in 2466
Chapter 2705. of the Revised Code, may punish for contempt any 2467
person who ~~uses any menacing word, sign, or gesture in its~~ 2468
~~presence, or who disturbs its proceedings by any riot or disorder.~~ 2469
~~The punishment may not exceed confinement for thirty days or a~~ 2470
~~fine of one hundred dollars, or both~~ is guilty of any act 2471

described in section 2705.02 of the Revised Code. 2472

~~Sec. 5924.49. (A) At any time after charges have been signed 2473
as provided in section 5924.30 of the Revised Code, any party may 2474
take oral or written depositions unless the military judge or 2475
court martial without a military judge hearing the case or, if the 2476
case is not being heard, an authority competent to convene a 2477
court martial for the trial of those charges forbids it for good 2478
cause. If a deposition is to be taken before charges are referred 2479
for trial, such an authority may designate commissioned officers 2480
to represent the prosecution and the defense and may authorize 2481
those officers to take the deposition of any witness. 2482~~

~~(B) The party at whose instance a deposition is to be taken 2483
shall give to every other party reasonable written notice of the 2484
time and place for taking the deposition. 2485~~

~~(C) Depositions may be taken before and authenticated by any 2486
military or civil officer authorized by the laws of the state or 2487
by the laws of the place where the deposition is taken to 2488
administer oaths. 2489~~

~~(D) A duly authenticated deposition, taken upon reasonable 2490
notice to the other parties, so far as otherwise admissible under 2491
the rules of evidence, may be read in evidence before any 2492
court martial or in any proceeding before a court of inquiry, if 2493
it appears: 2494~~

~~(1) That the witness resides or is beyond the state in which 2495
the court martial or court of inquiry is ordered to sit, or beyond 2496
the distance of one hundred miles from the place of trial or 2497
hearing; 2498~~

~~(2) That the witness by reason of death, age, sickness, 2499
bodily infirmity, imprisonment, military necessity, nonamenability 2500
to process, or other reasonable cause, is unable or refused to 2501~~

~~appear and testify in person at the place of trial or hearing;~~ 2502

~~(3) That the present whereabouts of the witness is unknown;~~ 2503

~~or~~ 2504

~~(4) That the deposition was taken in the physical presence of~~ 2505

~~the accused in the manner and for the purposes provided in the~~ 2506

~~Ohio Rules of Criminal Procedure.~~ 2507

Sec. 5924.50. (A) In any case ~~not capital and not extending~~ 2508

~~to the dismissal of a commissioned officer,~~ the sworn testimony, 2509

contained in the duly authenticated record of proceedings of a 2510

~~court board of inquiry,~~ officers of a person whose oral testimony 2511

cannot be obtained, may, if otherwise admissible under the rules 2512

of evidence, be read in evidence by any party before a 2513

court-martial if the accused was a party before the ~~court board of~~ 2514

~~inquiry~~ officers and if the same issue was involved or if the 2515

accused consents to the introduction of such evidence, ~~and if the~~ 2516

~~accused was physically present when the testimony was taken.~~ 2517

(B) Such testimony may be read in evidence only by the 2518

defense in cases extending to the dismissal of a commissioned 2519

officer. 2520

(C) Such testimony may also be read in evidence before a 2521

court of inquiry or a ~~military~~ board of officers. 2522

Sec. 5924.501. (A) In an action under this code, the military 2523

judge, trial counsel, defense counsel, or civilian counsel may 2524

raise the issue of the accused's competence to stand trial. If the 2525

issue is raised before the trial has commenced, the court shall 2526

hold a hearing on the issue as provided in this section. If the 2527

issue is raised after the trial has commenced, the court shall 2528

hold a hearing on the issue only for good cause shown or on the 2529

court's own motion. 2530

(B) The court shall conduct the hearing required or 2531

authorized under division (A) of this section within thirty days 2532
after the issue is raised unless the accused has been referred for 2533
evaluation in which case the court shall conduct the hearing 2534
within ten days after the filing of the report of the evaluation. 2535
A hearing may be continued for good cause. 2536

(C) The accused shall be represented by counsel at the 2537
hearing conducted under division (B) of this section. 2538

(D) The trial counsel and defense counsel may submit evidence 2539
on the issue of the accused's competence to stand trial. A written 2540
report of the evaluation of the accused may be admitted into 2541
evidence at the hearing by stipulation, but, if either the 2542
government or defense objects to its admission, the report may be 2543
admitted under seal of court in camera to the military judge. 2544

(E) The court shall not find an accused incompetent to stand 2545
trial solely because the accused is receiving or has received 2546
treatment as a voluntary or involuntary mentally ill patient under 2547
Chapter 5122. of the Revised Code or because the accused is 2548
receiving or has received psychotropic drugs or other medication, 2549
even if the accused might become incompetent to stand trial 2550
without the drugs or medication. 2551

(F) An accused is presumed to be competent to stand trial. 2552
If, after a hearing, the court finds by a preponderance of the 2553
evidence that, because of the accused's present mental condition, 2554
the accused is incapable of understanding the nature and objective 2555
of the proceedings against the accused or of assisting in the 2556
accused's defense, the court shall find the accused incompetent to 2557
stand trial and shall enter an order authorized by section 2558
5924.503 of the Revised Code. 2559

Sec. 5924.502. (A) If the issue of an accused's competence to 2560
stand trial is raised or if an accused enters a plea of not guilty 2561
by reason of insanity, the court may order one or more evaluations 2562

of the accused's present mental condition or, in the case of a 2563
plea of not guilty by reason of insanity, of the accused's mental 2564
condition at the time of the offense charged. An examiner shall 2565
conduct the evaluation. 2566

(B) If the court orders more than one evaluation under 2567
division (A) of this section, the trial counsel and the defense 2568
counsel may recommend to the court an examiner whom each prefers 2569
to perform one of the evaluations. If an accused enters a plea of 2570
not guilty by reason of insanity and if the court does not 2571
designate an examiner recommended by the defense counsel, the 2572
court shall inform the accused that the accused may have 2573
independent expert evaluation and that it will be obtained for the 2574
accused at public expense. 2575

(C) If the court orders an evaluation under division (A) of 2576
this section, the accused shall be available at the times and 2577
places established by the examiners who are to conduct the 2578
evaluation. The court may order an accused who is not being held 2579
in pretrial confinement to submit to an evaluation under this 2580
section. If an accused who is not being held in pretrial 2581
confinement refuses to submit to a complete evaluation, the court 2582
may order the sheriff to take the accused into custody and deliver 2583
the accused to a center, program, or facility operated or 2584
certified by the department of mental health where the accused may 2585
be held for evaluation for a reasonable period of time not to 2586
exceed twenty days. 2587

(D) An accused who is being held in pretrial confinement may 2588
be evaluated at the accused's place of detention. Upon the request 2589
of the examiner, the court may order the sheriff to transport the 2590
accused to a program or facility operated or certified by the 2591
department of mental health, where the accused may be held for 2592
evaluation for a reasonable period of time not to exceed twenty 2593
days, and to return the accused to the place of detention after 2594

the evaluation. 2595

(E) If a court orders the evaluation to determine an 2596
accused's mental condition at the time of the offense charged, the 2597
court shall inform the examiner of the offense with which the 2598
accused is charged. 2599

(F) In conducting an evaluation of an accused's mental 2600
condition at the time of the offense charged, the examiner shall 2601
consider all relevant evidence. If the offense charged involves 2602
the use of force against another person, the relevant evidence to 2603
be considered includes, but is not limited to, any evidence that 2604
the accused suffered at the time of the commission of the offense 2605
from the "battered woman syndrome." 2606

(G) The examiner shall file a written report with the court 2607
within thirty days after entry of a court order for evaluation, 2608
and the court shall provide copies of the report to the trial 2609
counsel and defense counsel. The report shall include all of the 2610
following: 2611

(1) The examiner's findings; 2612

(2) The facts in reasonable detail on which the findings are 2613
based; 2614

(3) If the evaluation was ordered to determine the accused's 2615
competence to stand trial, all of the following findings or 2616
recommendations that are applicable: 2617

(a) Whether the accused is capable of understanding the 2618
nature and objective of the proceedings against the accused or of 2619
assisting in the accused's defense; 2620

(b) If the examiner's opinion is that the accused is 2621
incapable of understanding the nature and objective of the 2622
proceedings against the accused or of assisting in the accused's 2623
defense, whether the accused presently is mentally ill; 2624

(c) If the examiner's opinion is that the accused is 2625
incapable of understanding the nature and objective of the 2626
proceedings against the accused or of assisting in the accused's 2627
defense, the examiner's opinion as to the likelihood of the 2628
accused becoming capable of understanding the nature and objective 2629
of the proceedings against the accused and of assisting in the 2630
accused's defense within one year if the accused is provided with 2631
a course of treatment; 2632

(d) If the examiner's opinion is that the accused is 2633
incapable of understanding the nature and objective of the 2634
proceedings against the accused or of assisting in the accused's 2635
defense and that the accused presently is mentally ill, the 2636
examiner's recommendation as to the least restrictive placement or 2637
commitment alternative, consistent with the accused's treatment 2638
needs for restoration to competency and with the safety of the 2639
community; 2640

(e) If the accused is charged before a special or summary 2641
court-martial with an offense that is not a violation of section 2642
5924.120, 5924.127, or 5924.128 of the Revised Code and the 2643
examiner's opinion is that the accused is incapable of 2644
understanding the nature and objective of the proceedings against 2645
the accused or of assisting in the accused's defense and that the 2646
accused is presently mentally ill, the examiner's recommendation 2647
as to whether the accused is amenable to engagement in mental 2648
health treatment. 2649

(4) If the evaluation was ordered to determine the accused's 2650
mental condition at the time of the offense charged, the 2651
examiner's findings as to whether the accused at the time of the 2652
offense charged did not know, as a result of a severe mental 2653
disease or defect, the wrongfulness of the accused's acts charged. 2654

(H) An examiner appointed under divisions (A) and (B) of this 2655
section to evaluate an accused to determine the accused's 2656

competence to stand trial also may be appointed to evaluate an 2657
accused who has entered a plea of not guilty by reason of 2658
insanity, but an examiner of that nature shall prepare separate 2659
reports on the issue of competence to stand trial and the defense 2660
of not guilty by reason of insanity. 2661

(I) No statement that an accused makes in an evaluation or 2662
hearing under divisions (A) to (H) of this section relating to the 2663
accused's competence to stand trial or to the accused's mental 2664
condition at the time of the offense charged may be used against 2665
the accused on the issue of guilt in any criminal action or 2666
proceeding, but, in a criminal action or proceeding, the trial 2667
counsel or defense counsel may call as a witness any person who 2668
evaluated the accused or prepared a report pursuant to a referral 2669
under this section. Neither the appointment nor the testimony of 2670
an examiner appointed under this section precludes the trial 2671
counsel or defense counsel from calling other witnesses or 2672
presenting other evidence on competency or insanity issues. 2673

(J) Persons appointed as examiners under divisions (A) and 2674
(B) of this section or under division (H) of this section shall be 2675
paid a reasonable amount for their services and expenses, as 2676
certified by the court. 2677

Sec. 5924.503. (A) If the issue of an accused's competence to 2678
stand trial is raised and if the court, upon conducting the 2679
hearing provided for in section 5924.502 of the Revised Code, 2680
finds that the accused is competent to stand trial, the accused 2681
shall be proceeded against as provided by law. If the court finds 2682
the accused competent to stand trial and the accused is receiving 2683
psychotropic drugs or other medication, the court may authorize 2684
the continued administration of the drugs or medication or other 2685
appropriate treatment in order to maintain the accused's 2686
competence to stand trial unless the accused's attending physician 2687

advises the court against continuation of the drugs, other 2688
medication, or treatment. 2689

(B)(1)(a) If, after taking into consideration all relevant 2690
reports, information, and other evidence, the court finds that the 2691
accused is incompetent to stand trial and that there is a 2692
substantial probability that the accused will become competent to 2693
stand trial within one year if the accused is provided with a 2694
course of treatment, the court shall order the accused to undergo 2695
treatment. If the accused is being tried by a general 2696
court-martial and if, after taking into consideration all relevant 2697
reports, information, and other evidence, the court finds that the 2698
accused is incompetent to stand trial, but the court is unable at 2699
that time to determine whether there is a substantial probability 2700
that the accused will become competent to stand trial within one 2701
year if the accused is provided with a course of treatment, the 2702
court shall order continuing evaluation and treatment of the 2703
accused for a period not to exceed four months to determine 2704
whether there is a substantial probability that the accused will 2705
become competent to stand trial within one year if the accused is 2706
provided with a course of treatment. 2707

(b) The court order for the accused to undergo treatment or 2708
continuing evaluation and treatment under division (B)(1)(a) of 2709
this section shall specify that the accused, if determined to 2710
require mental health treatment or continuing evaluation and 2711
treatment, shall be committed to the department of mental health 2712
for treatment or continuing evaluation and treatment at a 2713
hospital, facility, or agency determined to be clinically 2714
appropriate by the department of mental health. The order may 2715
restrict the accused's freedom of movement as the court considers 2716
necessary. The trial counsel in the accused's case shall send to 2717
the chief clinical officer of the hospital, facility, or agency 2718
where the accused is placed by the department of mental health or 2719

to the managing officer of the institution, the director of the facility, or the person to which the accused is committed copies of relevant investigative reports and other background information that pertains to the accused and is available to the trial counsel unless the trial counsel determines that the release of any of the information in the investigative reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In committing the accused to the department of mental health, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the accused's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the accused is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the accused is placed, or the managing officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the accused's competency to stand trial, and if the accused lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the accused is placed or the managing officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of

medication. The court shall hold a hearing on the petition within 2752
five days of the filing of the petition. Following the hearing, 2753
the court may authorize the involuntary administration of 2754
medication or may dismiss the petition. 2755

(d) If the accused is charged before a special or summary 2756
court-martial with an offense that is not a violation of section 2757
5924.120, 5924.127, or 5924.128 of the Revised Code, the trial 2758
counsel may hold the charges in abeyance while the accused engages 2759
in mental health treatment. 2760

(2) If the court finds that the accused is incompetent to 2761
stand trial and that, even if the accused is provided with a 2762
course of treatment, there is not a substantial probability that 2763
the accused will become competent to stand trial within one year, 2764
the court shall order the discharge of the accused, unless upon 2765
motion of the trial counsel or on its own motion, the court either 2766
seeks to retain jurisdiction over the accused pursuant to division 2767
(A)(2) of section 5924.504 of the Revised Code or files an 2768
affidavit in the probate court for the civil commitment of the 2769
accused pursuant to Chapter 5122. of the Revised Code alleging 2770
that the accused is a mentally ill person subject to 2771
hospitalization by court order. If an affidavit is filed in the 2772
probate court, the trial court shall send to the probate court 2773
copies of all written reports of the accused's mental condition 2774
that were prepared pursuant to section 5924.502 of the Revised 2775
Code. 2776

The trial court may issue the temporary order of detention 2777
that a probate court may issue under section 5122.11 of the 2778
Revised Code, to remain in effect until the probable cause or 2779
initial hearing in the probate court. Further proceedings in the 2780
probate court are civil proceedings governed by Chapter 5122. of 2781
the Revised Code. 2782

(C) No accused shall be required to undergo treatment, 2783

including any continuing evaluation and treatment, under division 2784
(B)(1) of this section for longer than whichever of the following 2785
periods is applicable: 2786

(1) One year, if the accused is being tried by a general 2787
court-martial; 2788

(2) Six months, if the accused is being tried before a 2789
special court-martial; 2790

(3) Sixty days, if the accused is being tried before a 2791
summary court-martial. 2792

(D) Any accused who is committed pursuant to this section 2793
shall not voluntarily admit the accused or be voluntarily admitted 2794
to a hospital or institution pursuant to section 5122.02 or 2795
5122.15 of the Revised Code. 2796

(E) Except as otherwise provided in this division, an accused 2797
who is charged with an offense and is committed by the court under 2798
this section to the department of mental health with restrictions 2799
on the accused's freedom of movement shall not be granted 2800
unsupervised on-grounds movement, supervised off-grounds movement, 2801
or nonsecured status except in accordance with the court order. 2802
The court may grant an accused supervised off-grounds movement to 2803
obtain medical treatment or specialized habilitation treatment 2804
services if the person who supervises the treatment or the 2805
continuing evaluation and treatment of the accused ordered under 2806
division (B)(1)(a) of this section informs the court that the 2807
treatment or continuing evaluation and treatment cannot be 2808
provided at the hospital or facility where the accused is placed 2809
by the department of mental health. The chief clinical officer of 2810
the hospital or facility where the accused is placed by the 2811
department of mental health or the managing officer of the 2812
institution or director of the facility to which the accused is 2813
committed or a designee of any of those persons may grant an 2814

accused movement to a medical facility for an emergency medical 2815
situation with appropriate supervision to ensure the safety of the 2816
accused, staff, and community during that emergency medical 2817
situation. The chief clinical officer of the hospital or facility 2818
where the accused is placed by the department of mental health or 2819
the managing officer of the institution or director of the 2820
facility to which the accused is committed shall notify the court 2821
within twenty-four hours of the accused's movement to the medical 2822
facility for an emergency medical situation under this division. 2823

(F) The person who supervises the treatment or continuing 2824
evaluation and treatment of an accused ordered to undergo 2825
treatment or continuing evaluation and treatment under division 2826
(B)(1)(a) of this section shall file a written report with the 2827
court at the following times: 2828

(1) Whenever the person believes the accused is capable of 2829
understanding the nature and objective of the proceedings against 2830
the accused and of assisting in the accused's defense; 2831

(2) Fourteen days before expiration of the maximum time for 2832
treatment as specified in division (C) of this section and 2833
fourteen days before the expiration of the maximum time for 2834
continuing evaluation and treatment as specified in division 2835
(B)(1)(a) of this section; 2836

(3) At a minimum, after each six months of treatment; 2837

(4) Whenever the person who supervises the treatment or 2838
continuing evaluation and treatment of an accused ordered under 2839
division (B)(1)(a) of this section believes that there is not a 2840
substantial probability that the accused will become capable of 2841
understanding the nature and objective of the proceedings against 2842
the accused or of assisting in the accused's defense even if the 2843
accused is provided with a course of treatment. 2844

(G) A report under division (F) of this section shall contain 2845

the examiner's findings, the facts in reasonable detail on which 2846
the findings are based, and the examiner's opinion as to the 2847
accused's capability of understanding the nature and objective of 2848
the proceedings against the accused and of assisting in the 2849
accused's defense. If, in the examiner's opinion, the accused 2850
remains incapable of understanding the nature and objective of the 2851
proceedings against the accused and of assisting in the accused's 2852
defense and there is a substantial probability that the accused 2853
will become capable of understanding the nature and objective of 2854
the proceedings against the accused and of assisting in the 2855
accused's defense if the accused is provided with a course of 2856
treatment, if in the examiner's opinion the accused remains 2857
mentally ill, and if the maximum time for treatment as specified 2858
in division (C) of this section has not expired, the report also 2859
shall contain the examiner's recommendation as to the least 2860
restrictive placement or commitment alternative that is consistent 2861
with the accused's treatment needs for restoration to competency 2862
and with the safety of the community. The court shall provide 2863
copies of the report to the trial counsel and defense counsel. 2864

(H) If an accused is committed pursuant to division (B)(1) of 2865
this section, within ten days after the treating physician of the 2866
accused or the examiner of the accused who is employed or retained 2867
by the treating facility advises that there is not a substantial 2868
probability that the accused will become capable of understanding 2869
the nature and objective of the proceedings against the accused or 2870
of assisting in the accused's defense even if the accused is 2871
provided with a course of treatment, within ten days after the 2872
expiration of the maximum time for treatment as specified in 2873
division (C) of this section, within ten days after the expiration 2874
of the maximum time for continuing evaluation and treatment as 2875
specified in division (B)(1)(a) of this section, within thirty 2876
days after an accused's request for a hearing that is made after 2877
six months of treatment, or within thirty days after being advised 2878

by the treating physician or examiner that the accused is 2879
competent to stand trial, whichever is the earliest, the court 2880
shall conduct another hearing to determine if the accused is 2881
competent to stand trial and shall do whichever of the following 2882
is applicable: 2883

(1) If the court finds that the accused is competent to stand 2884
trial, the accused shall be proceeded against as provided by law. 2885

(2) If the court finds that the accused is incompetent to 2886
stand trial, but that there is a substantial probability that the 2887
accused will become competent to stand trial if the accused is 2888
provided with a course of treatment, and the maximum time for 2889
treatment as specified in division (C) of this section has not 2890
expired, the court, after consideration of the examiner's 2891
recommendation, shall order that treatment be continued, may 2892
change least restrictive limitations on the accused's freedom of 2893
movement. 2894

(3) If the court finds that the accused is incompetent to 2895
stand trial, if the accused is being tried by a general 2896
court-martial, and if the court finds that there is not a 2897
substantial probability that the accused will become competent to 2898
stand trial even if the accused is provided with a course of 2899
treatment, or if the maximum time for treatment as specified in 2900
division (C) of this section has expired, further proceedings 2901
shall be as provided in sections 5924.504 to 5924.506 of the 2902
Revised Code. 2903

(4) If the court finds that the accused is incompetent to 2904
stand trial, if the accused is being tried before a special 2905
court-martial, and if the court finds that there is not a 2906
substantial probability that the accused will become competent to 2907
stand trial even if the accused is provided with a course of 2908
treatment, or if the maximum time for treatment as specified in 2909
division (C) of this section has expired, the court shall dismiss 2910

the charge against the accused. A dismissal under this division is 2911
not a bar to further prosecution based on the same conduct. The 2912
court shall discharge the accused unless the court or trial 2913
counsel files an affidavit in probate court for civil commitment 2914
pursuant to Chapter 5122. of the Revised Code. If an affidavit for 2915
civil commitment is filed, the court may detain the accused for 2916
ten days pending civil commitment. All of the following provisions 2917
apply to persons being tried by a special court-martial who are 2918
committed by the probate court subsequent to the court's or trial 2919
counsel's filing of an affidavit for civil commitment under 2920
authority of this division: 2921

(a) The chief clinical officer of the entity, hospital, or 2922
facility, the managing officer of the institution, or the person 2923
to which the accused is committed or admitted shall do all of the 2924
following: 2925

(i) Notify the trial counsel in writing of the discharge of 2926
the accused, send the notice at least ten days prior to the 2927
discharge unless the discharge is by the probate court and state 2928
in the notice the date on which the accused will be discharged; 2929

(ii) Notify the trial counsel in writing when the accused is 2930
absent without leave or is granted unsupervised, off-grounds 2931
movement and send this notice promptly after the discovery of the 2932
absence without leave or prior to the granting of the 2933
unsupervised, off-grounds movement, whichever is applicable; 2934

(iii) Notify the trial counsel in writing of the change of 2935
the accused's commitment or admission to voluntary status, send 2936
the notice promptly upon learning of the change to voluntary 2937
status, and state in the notice the date on which the accused was 2938
committed or admitted on a voluntary status. 2939

(b) The trial counsel shall promptly inform the convening 2940
authority of any notification received under division (H)(4)(a) of 2941

this section. Upon receiving notice that the accused will be 2942
granted unsupervised, off-grounds movement, the convening 2943
authority either shall refer the charges against the accused to an 2944
investigating officer again or promptly notify the court that the 2945
convening authority does not intend to refer the charges against 2946
the accused again. 2947

(I) If an accused is convicted of a crime and sentenced to 2948
confinement, the accused's sentence shall be reduced by the total 2949
number of days the accused is confined for evaluation to determine 2950
the accused's competence to stand trial or treatment under this 2951
section and sections 5924.502 and 5924.504 of the Revised Code or 2952
by the total number of days the accused is confined for evaluation 2953
to determine the accused's mental condition at the time of the 2954
offense charged. 2955

Sec. 5924.504. (A) If an accused being tried by a general 2956
court-martial is found incompetent to stand trial, after the 2957
expiration of the maximum time for treatment as specified in 2958
division (C) of section 5924.503 of the Revised Code or after the 2959
court finds that there is not a substantial probability that the 2960
accused will become competent to stand trial even if the accused 2961
is provided with a course of treatment, one of the following 2962
applies: 2963

(1) The court or the trial counsel may file an affidavit in 2964
probate court for civil commitment of the accused in the manner 2965
provided in Chapter 5122. of the Revised Code. If the court or 2966
trial counsel files an affidavit for civil commitment, the court 2967
may detain the accused for ten days pending civil commitment. If 2968
the probate court commits the accused subsequent to the court's or 2969
trial counsel's filing of an affidavit for civil commitment, the 2970
chief clinical officer of the entity, hospital, or facility, the 2971
managing officer of the institution, or the person to which the 2972

accused is committed or admitted shall send to the trial counsel 2973
the notices described in divisions (H)(4)(a)(i) to (iii) of 2974
section 5924.503 of the Revised Code within the periods of time 2975
and under the circumstances specified in those divisions. 2976

(2) On the motion of the trial counsel or on its own motion, 2977
the court may retain jurisdiction over the accused if at a hearing 2978
the court finds both of the following by clear and convincing 2979
evidence: 2980

(a) The accused committed the offense with which the accused 2981
is charged. 2982

(b) The accused is a mentally ill person subject to 2983
hospitalization by court order. 2984

(B) In making its determination under division (A)(2) of this 2985
section as to whether to retain jurisdiction over the accused, the 2986
court may consider all relevant evidence, including, but not 2987
limited to, any relevant psychiatric, psychological, or medical 2988
testimony or reports, the acts constituting the offense charged, 2989
and any history of the accused that is relevant to the accused's 2990
ability to conform to the law. 2991

(C) If the court conducts a hearing as described in division 2992
(A)(2) of this section and if the court does not make both 2993
findings described in divisions (A)(2)(a) and (b) of this section 2994
by clear and convincing evidence, the court shall dismiss the 2995
charges against the accused. Upon the dismissal, the court shall 2996
discharge the accused unless the court or trial counsel files an 2997
affidavit in probate court for civil commitment of the accused 2998
pursuant to Chapter 5122. of the Revised Code. If the court or 2999
trial counsel files an affidavit for civil commitment, the court 3000
may order that the accused be detained for up to ten days pending 3001
the civil commitment. If the probate court commits the accused 3002
subsequent to the court's or trial counsel's filing of an 3003

affidavit for civil commitment, the chief clinical officer of the 3004
entity, hospital, or facility, the managing officer of the 3005
institution, or the person to which the accused is committed or 3006
admitted shall send to the trial counsel the notices described in 3007
divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised 3008
Code within the periods of time and under the circumstances 3009
specified in those divisions. A dismissal of charges under this 3010
division is not a bar to further criminal proceedings based on the 3011
same conduct. 3012

(D)(1) If the court conducts a hearing as described in 3013
division (A)(2) of this section and if the court makes the 3014
findings described in divisions (A)(2)(a) and (b) of this section 3015
by clear and convincing evidence, the court shall commit the 3016
accused, if determined to require mental health treatment, to the 3017
department of mental health for treatment at a hospital, facility, 3018
or agency as determined clinically appropriate by the department 3019
of mental health. In committing the accused to the department of 3020
mental health, the court shall specify the least restrictive 3021
limitations on the accused's freedom of movement determined to be 3022
necessary to protect public safety. 3023

(2) If a court makes a commitment of an accused under 3024
division (D)(1) of this section, the trial counsel shall send to 3025
the hospital, facility, or agency where the accused is placed by 3026
the department of mental health or to the accused's place of 3027
commitment all reports of the accused's current mental condition 3028
and, except as otherwise provided in this division, any other 3029
relevant information, including, but not limited to, a transcript 3030
of the hearing held pursuant to division (A)(2) of this section, 3031
copies of relevant investigative reports, and copies of any prior 3032
arrest and conviction records that pertain to the accused and that 3033
the trial counsel possesses. The trial counsel shall send the 3034
reports of the accused's current mental condition in every case of 3035

commitment, and, unless the trial counsel determines that the 3036
release of any of the other relevant information to unauthorized 3037
persons would interfere with the effective prosecution of any 3038
person or would create a substantial risk of harm to any person, 3039
the trial counsel also shall send the other relevant information. 3040

(3) If a court makes a commitment under division (D)(1) of 3041
this section, all further proceedings shall be in accordance with 3042
Chapter 5122. of the Revised Code. 3043

Sec. 5924.505. For purposes of sections 5924.502 and 5924.506 3044
of the Revised Code, a person is "not guilty by reason of 3045
insanity" relative to a charge of an offense only as described in 3046
division (A)(14) of section 2901.01 of the Revised Code. Proof 3047
that a person's reason, at the time of the commission of an 3048
offense, was so impaired that the person did not have the ability 3049
to refrain from doing the person's act or acts, does not 3050
constitute a defense. 3051

Sec. 5924.506. (A) If an accused person is found not guilty 3052
by reason of insanity, the verdict shall state that finding, and 3053
the trial court shall conduct a full hearing to determine whether 3054
the person is a mentally ill person subject to hospitalization by 3055
court order. Prior to the hearing, if the military judge believes 3056
that there is probable cause that the person found not guilty by 3057
reason of insanity is a mentally ill person subject to 3058
hospitalization by court order, the military judge may issue a 3059
temporary order of detention for that person to remain in effect 3060
for ten court days or until the hearing, whichever occurs first. 3061

Any person detained pursuant to a temporary order of 3062
detention issued under this division shall be held in a suitable 3063
facility, taking into consideration the place and type of 3064
confinement prior to and during trial. 3065

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent. 3066
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(C) If a person is found not guilty by reason of insanity, the person has the right to attend a hearing conducted pursuant to this section. At the hearing, the court shall inform the person that the person has all of the following rights: 3075
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(1) The right to be represented by defense counsel or to retain civilian counsel, if the person so chooses; 3079
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(2) The right to have independent expert evaluation; 3081

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person; 3082
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(4) The right to testify in the person's own behalf and to not be compelled to testify; 3085
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(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person. 3087
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(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with regulations prescribed by the adjutant general. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant 3092
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evidence, including, but not limited to, any relevant psychiatric, 3097
psychological, or medical testimony or reports, the acts 3098
constituting the offense in relation to which the person was found 3099
not guilty by reason of insanity, and any history of the person 3100
that is relevant to the person's ability to conform to the law. 3101

(E) Upon completion of the hearing under division (A) of this 3102
section, if the court finds there is not clear and convincing 3103
evidence that the person is a mentally ill person subject to 3104
hospitalization by court order, the court shall discharge the 3105
person, unless a detainer has been placed upon the person by the 3106
department of rehabilitation and correction, in which case the 3107
person shall be returned to that department. 3108

(F) If, at the hearing under division (A) of this section, 3109
the court finds by clear and convincing evidence that the person 3110
is a mentally ill person subject to hospitalization by court 3111
order, it shall commit the person to the department of mental 3112
health for placement in a hospital, facility, or agency as 3113
determined clinically appropriate by the department of mental 3114
health. Further proceedings shall be in accordance with Chapter 3115
5122. or 5123. of the Revised Code. In committing the accused to 3116
the department of mental health, the court shall specify the least 3117
restrictive limitations on the accused's freedom of movement 3118
determined to be necessary to protect public safety. 3119

(G) If a court makes a commitment of a person under division 3120
(F) of this section, the trial counsel shall send to the hospital, 3121
facility, or agency where the defendant is placed by the 3122
department of mental health or to the accused's place of 3123
commitment all reports of the person's current mental condition, 3124
and, except as otherwise provided in this division, any other 3125
relevant information, including, but not limited to, a transcript 3126
of the hearing held pursuant to division (A) of this section, 3127
copies of relevant investigative reports, and copies of any prior 3128

arrest and conviction records that pertain to the person and that 3129
the trial counsel possesses. The trial counsel shall send the 3130
reports of the person's current mental condition in every case of 3131
commitment, and, unless the trial counsel determines that the 3132
release of any of the other relevant information to unauthorized 3133
persons would interfere with the effective prosecution of any 3134
person or would create a substantial risk of harm to any person, 3135
the trial counsel also shall send the other relevant information. 3136

(H) A person who is committed pursuant to this section shall 3137
not voluntarily admit the person or be voluntarily admitted to a 3138
hospital or institution pursuant to sections 5122.02 and 5122.15 3139
of the Revised Code. 3140

Sec. 5924.51. (A) Voting by members of a general or special 3141
court-martial on the findings and on the sentence, and by members 3142
of a court-martial without a military judge upon questions of 3143
challenge, shall be by secret written ballot. The junior member of 3144
the court shall in each case count the votes. The count shall be 3145
checked by the president, who shall forthwith announce the result 3146
of the ballot to the members of the court. 3147

(B) The military judge and, except for questions of 3148
challenge, the president of a court-martial without a military 3149
judge shall rule upon all questions of law and all interlocutory 3150
questions arising during the proceedings. Any such ruling made by 3151
the military judge upon any question of law or any interlocutory 3152
question other than the factual issue of mental responsibility of 3153
the accused, or by the president of a special court-martial, 3154
without a military judge upon any question of law other than a 3155
motion for a finding of not guilty, is final and constitutes the 3156
ruling of the court. However, the military judge or the president 3157
of a court-martial without a military judge may change the ruling 3158
at any time during the trial. Unless the ruling is final, if any 3159

member objects thereto, the court shall be cleared and closed and 3160
the question decided by a voice vote as provided in section 3161
5924.52 of the Revised Code, beginning with the junior in rank. 3162

(C) Before a vote is taken on the findings, the military 3163
judge or the president of a court-martial without a military judge 3164
shall, in the presence of the accused and counsel, instruct the 3165
members of the court as to the elements of the offense and charge 3166
~~the court~~ them: 3167

(1) That the accused must be presumed to be innocent until 3168
~~his~~ guilt is established by legal and competent evidence beyond 3169
reasonable doubt; 3170

(2) That in the case being considered, if there is a 3171
reasonable doubt as to the guilt of the accused, the doubt must be 3172
resolved in favor of the accused, and ~~he~~ the accused must be 3173
acquitted; 3174

(3) That, if there is a reasonable doubt as to the degree of 3175
guilt, the finding must be in a lower degree as to which there is 3176
no reasonable doubt; and 3177

(4) That the burden of proof to establish the guilt of the 3178
accused beyond reasonable doubt is upon the state. 3179

(D) Divisions (A), (B), and (C) of this section do not apply 3180
to a court-martial composed of a military judge only. The military 3181
judge of such a court-martial shall determine all questions of law 3182
and fact arising during the proceedings and, if the accused is 3183
convicted, adjudge an appropriate sentence. The military judge of 3184
such a court-martial shall make a general finding and shall in 3185
addition on request ~~find the facts specially~~ make specific 3186
findings of fact. If an opinion or memorandum of decision is 3187
filed, it will be sufficient if the findings of fact appear 3188
therein. 3189

~~Sec. 5924.52. (A)(1) No person may be convicted of an offense 3190
for which the death penalty is made mandatory by law, except by 3191
the concurrence of all members of the court martial present at the 3192
time the vote is taken. 3193~~

~~(2) No person may be convicted of any other offense, except 3194
as provided in division (B) of section 5924.45 of the Revised Code 3195
or by the concurrence of two-thirds of the members of the 3196
court-martial present at the time the vote is taken. 3197~~

~~(B)(1) No person may be sentenced to suffer death, except by 3198
the concurrence of all members of the court martial present at the 3199
time the vote is taken and for an offense in this chapter 3200
expressly made punishable by death. 3201~~

~~(2) No person may be sentenced to life imprisonment or to 3202
confinement for more than ten years, except by the concurrence of 3203
three fourths of the members present at the time the vote is 3204
taken. 3205~~

~~(3) All other sentences shall be determined by the 3206
concurrence of two thirds of the members present at the time the 3207
vote is taken. 3208~~

~~(C) All other questions to be decided by the members of a 3209
general or special court-martial shall be determined by a majority 3210
vote, but a determination to reconsider a finding of guilty or to 3211
reconsider a sentence, to decrease or lessen it, may be made by 3212
any lesser vote ~~which~~ that indicates that the reconsideration is 3213
not opposed by the number of votes required for that finding or 3214
sentence. A tie vote on a challenge disqualifies the member 3215
challenged. A tie vote on a motion for a finding of not guilty or 3216
on a motion relating to the question of the accused's sanity is a 3217
determination against the accused. A tie vote on any other 3218
question is a determination in favor of the accused. 3219~~

Sec. 5924.54. (A) Each general court-martial shall keep a 3220
separate record of the proceedings in each case brought before it, 3221
and the record shall be authenticated by the signature of the 3222
military judge. If the record cannot be authenticated by the 3223
military judge by reason of ~~his~~ death, disability, or absence, it 3224
shall be authenticated by the signature of the trial counsel or by 3225
that of a member if the trial counsel is unable to authenticate it 3226
by reason of ~~his~~ death, disability, or absence. In a court-martial 3227
consisting of only a military judge, the record shall be 3228
authenticated by the court reporter under the same conditions 3229
~~which that~~ would impose such a duty on a member under this 3230
division ~~if the proceedings have resulted in an acquittal of all~~ 3231
~~charges and specifications or, if not affecting a general or flag~~ 3232
~~officer, in a sentence not including discharge and not in excess~~ 3233
~~of that which may otherwise be adjudged by a special~~ 3234
~~court martial. The record shall contain matters as may be~~ 3235
~~prescribed by regulations of the governor.~~ 3236

(B) Each special and summary court-martial shall keep a 3237
separate record of the proceedings in each case, ~~which and the~~ 3238
record shall ~~contain such matter and~~ be authenticated in ~~such the~~ 3239
manner ~~as may be~~ required by regulations ~~which the governor may~~ 3240
~~prescribe~~ prescribed by the adjutant general. 3241

(C)(1) A complete record of the proceedings and testimony 3242
shall be prepared in the following cases: 3243

(a) Each case tried before a general court-martial in which 3244
the sentence adjudged includes a dismissal, a discharge, or any 3245
punishment that exceeds the punishment that may otherwise be 3246
adjudged by a special court-martial; 3247

(b) Each case tried before a special court-martial in which 3248
the sentence adjudged includes a bad-conduct discharge or 3249
confinement for more than six months. 3250

(2) In all other cases tried before a court-martial, the 3251
record shall contain any matters that are required by regulations 3252
of the adjutant general. A copy of the record of the proceedings 3253
of each general and special court-martial shall be given to the 3254
accused as soon as it is authenticated. ~~If a verbatim record of~~ 3255
~~trial by general or special court martial is not required under~~ 3256
~~divisions (A) and (B) of this section, the accused may buy such a~~ 3257
~~record under such regulations as the governor may prescribe.~~ 3258

Sec. 5924.56. The punishment ~~which~~ that a court-martial may 3259
direct for an offense may not exceed limits prescribed by ~~this~~ 3260
~~code or such lesser limits as the governor may prescribe~~ adjutant 3261
general for the offense. 3262

Sec. 5924.57. (A) ~~Whenever a sentence of a court martial as~~ 3263
~~lawfully adjudged and approved includes a forfeitures~~ (1) A 3264
forfeiture of pay or allowances ~~in addition to confinement not~~ 3265
~~suspended or deferred, the forfeiture may apply to pay or~~ 3266
~~allowances becoming due on or after the date the sentence is~~ 3267
~~approved by the convening authority. No forfeiture may extend to~~ 3268
~~any pay or allowances accrued before that date~~ or reduction in 3269
grade that is included in a sentence of a court-martial takes 3270
effect on the earlier of the date that is fourteen days after the 3271
date on which the sentence is adjudged or the date on which the 3272
sentence is approved by the convening authority. 3273

(2) On application of an accused, the convening authority may 3274
defer a forfeiture of pay or allowances or reduction in grade that 3275
would otherwise become effective on the date that is fourteen days 3276
after the date on which the sentence is adjudged until the date on 3277
which the sentence is approved by the convening authority. The 3278
convening authority may at any time rescind a deferment granted 3279
under this division. 3280

(3) A forfeiture of pay or allowances applies to pay or allowances accruing on and after the date on which the sentence takes effect. 3281
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(B) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement. ~~Regulations prescribed by the governor may provide that sentences of confinement may not be executed until approved by designated officers.~~ 3284
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(C) All other sentences of courts-martial are effective on the date ordered executed. 3292
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(D)(1) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under ~~his~~ the convening authority's jurisdiction, the ~~governor,~~ officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned may in ~~his~~ the officer's sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under ~~his~~ the officer's jurisdiction, by the ~~governor~~ officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned. 3294
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(2) In any case in which a court-martial sentences a person described in division (D)(3) of this section to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a state or foreign country referred to in that division. 3306
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(3) Division (D)(2) of this section applies to a person 3312
subject to this chapter who, while in the custody of a state or 3313
foreign country, is temporarily returned by that state or foreign 3314
country to the armed forces for trial by court-martial and after 3315
the court-martial is returned to that state or foreign country 3316
under the authority of a mutual agreement or treaty. 3317

(4) As used in division (D)(3) of this section, "state" 3318
includes the District of Columbia and any state, commonwealth, 3319
territory, or possession of the United States having a national 3320
guard. 3321

(E) In any case in which a sentence to confinement has been 3322
ordered executed but in which review of the case under section 3323
5924.64 of the Revised Code is pending, the adjutant general may 3324
defer further service of the sentence while the review is pending. 3325

Sec. 5924.58. (A) ~~A~~ Subject to regulations prescribed by the 3326
adjutant general, a sentence of confinement adjudged by a 3327
court-martial or other military court tribunal, whether or not the 3328
sentence includes discharge or dismissal, and whether or not the 3329
discharge or dismissal has been executed, may be carried into 3330
execution by confinement in any ~~place of confinement under the~~ 3331
~~control of any of the forces of the organized militia or in any~~ 3332
~~jail or prison designated for that purpose~~ jail or correctional 3333
facility in this state. Persons so confined ~~in a jail or prison~~ 3334
are subject to the same discipline and treatment as persons 3335
confined or committed to the jail or ~~prison~~ correctional facility 3336
by the courts of the state or of any political subdivision ~~thereof~~ 3337
of the state. 3338

~~(B) The omission of the words "hard labor" from any sentence~~ 3339
~~or punishment of a court martial adjudging confinement does not~~ 3340
~~deprive the authority executing that sentence or punishment of the~~ 3341
~~power to require hard labor as a part of the punishment.~~ 3342

~~(C) The keepers, officers, and wardens of city or county jails and of other jails or prisons designated by the governor, or by such person as he may authorize to act under section 5924.11 of the Revised Code and of this code, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge kind may be required for so receiving or confining a person housing a prisoner under this code.~~

Sec. 5924.581. (A) Except as otherwise provided in regulations made by the adjutant general, a court-martial sentence of an enlisted member in a pay grade above E-1 that includes a dishonorable or bad-conduct discharge, confinement, or hard labor without confinement reduces the member to pay grade E-1, effective on the date the convening authority approves the sentence.

(B) If the sentence of a member who is reduced in pay grade under division (A) of this section is set aside or disapproved, or as finally approved does not include a dishonorable or bad-conduct discharge, confinement, or hard labor without confinement, the rights and privileges of which the member was deprived because of the reduction in pay are restored, and the member shall be paid the pay and allowances that the member would have been paid for the period the reduction was in effect had the member not been reduced in pay.

Sec. 5924.582. (A) A member who receives a court-martial sentence that includes confinement for more than six months or confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal forfeits pay, or pay and allowances, during any period of confinement or parole. The forfeiture takes effect on the date determined under section 5924.57 of the Revised Code and may be deferred as provided by

that section. The pay and allowances forfeited as a result of a 3374
sentence imposed by a general court-martial shall be all pay and 3375
allowances due during any period of confinement or parole. The pay 3376
and allowances forfeited as a result of a sentence imposed by a 3377
special court-martial shall be two-thirds of all pay and 3378
allowances due during any period of confinement or parole. 3379

(B) If a member subject to forfeiture of pay or pay and 3380
allowances under division (A) of this section has dependents, the 3381
convening authority or other person acting under section 5924.60 3382
of the Revised Code may waive all or part of the forfeiture of pay 3383
and allowances for a period not exceeding six months. Any pay or 3384
allowances paid as a result of a waiver shall be paid, as the 3385
convening authority or other person taking action directs, to the 3386
dependents of the accused member. 3387

(C) If the sentence of a member who forfeits pay and 3388
allowances under division (A) of this section is set aside or 3389
disapproved or, as finally approved, does not provide for a 3390
punishment that includes confinement for more than six months or 3391
confinement for six months or less and a dishonorable or 3392
bad-conduct discharge or dismissal, the member shall be paid the 3393
pay and allowances that the member would have been paid for the 3394
period the forfeiture was in effect had the member's pay and 3395
allowances not been forfeited. 3396

Sec. 5924.59. (A) A finding or sentence of a court-martial 3397
may not be held incorrect on the ground of an error of law unless 3398
the error materially prejudices the substantial rights of the 3399
accused. 3400

(B) Any reviewing authority with the power to approve or 3401
affirm a finding of guilty may instead approve or affirm so much 3402
of the finding as includes a lesser included offense. 3403

~~Sec. 5924.60. After a trial by (A) A court-martial, the~~ 3404
~~record shall be forwarded report its findings and sentence to the~~ 3405
~~convening authority, as reviewing authority, and action thereon~~ 3406
~~may be taken by after announcing the person who convened the~~ 3407
~~court, a commissioned officer commanding for the time being, a~~ 3408
~~successor in command, or by the governor sentence.~~ 3409

(B)(1) The accused may submit to the convening authority 3410
matters relating to the findings and sentence to the convening 3411
authority for its consideration. A submission shall be in writing. 3412
A submission shall be made within ten days after the accused has 3413
been given an authenticated record of trial and, if applicable, 3414
the recommendation of the staff judge advocate or legal officer 3415
under division (D) of this section or, in a summary court-martial 3416
case, within seven days after the sentence is announced. 3417

(2) The convening authority or other person taking action 3418
under this section, for good cause shown by the accused, may 3419
extend the period for submission of matters under division (B)(1) 3420
of this section for not more than twenty days. 3421

(3) In a summary court-martial case, the summary court 3422
officer shall promptly provide the accused with a copy of the 3423
record of trial for use in preparing a submission authorized by 3424
division (B)(1) of this section. 3425

(4) The accused may waive the right to make a submission 3426
under division (B)(1) of this section. A waiver shall be made in 3427
writing and may not be revoked. The time within which the accused 3428
may make a submission under this subsection expires upon the 3429
submission of a waiver to the convening authority. 3430

(C)(1) The authority under this section to act on the 3431
findings and sentence of a court-martial is a matter of command 3432
prerogative involving the sole discretion of the convening 3433
authority. Pursuant to regulations prescribed by the adjutant 3434

general, a commissioned officer commanding for the time being, a 3435
successor in command, or any person exercising general 3436
court-martial jurisdiction may act under this section in place of 3437
the convening authority. 3438

(2) The convening authority or another person authorized to 3439
act under this section may act on the sentence of a court-martial 3440
pursuant to division (B)(3) of this section. Subject to 3441
regulations prescribed by the adjutant general, the convening 3442
authority or other authorized person may act only after the 3443
accused submits matters under division (B) of this section or the 3444
time for submitting matters expires, whichever is earlier. If the 3445
accused makes a submission, the convening authority or other 3446
authorized person shall take the submission into consideration 3447
before acting. 3448

(3) The convening authority or other authorized person, in 3449
the convening authority's or other authorized person's sole 3450
discretion, may approve, disapprove, commute, or suspend the 3451
sentence of a court-martial in whole or in part. The convening 3452
authority or other authorized person acting on a sentence may but 3453
is not required to take action on the findings of the 3454
court-martial. A convening authority or other authorized person 3455
that chooses to act on the findings may dismiss any charge or 3456
specification by setting aside a finding of guilt with regard to 3457
that charge or specification or may change a finding of guilty 3458
with regard to a charge or specification to a finding of guilty to 3459
an offense that is a lesser included offense of the offense stated 3460
in the charge or specification. 3461

(D) Before acting under this section on any general 3462
court-martial case or on any special court-martial case that 3463
includes a bad-conduct discharge, the convening authority or other 3464
authorized person shall obtain and consider the written 3465
recommendation of the convening authority's or other authorized 3466

person's staff judge advocate or legal officer. The convening 3467
authority or other authorized person shall refer the record of 3468
trial to the staff judge advocate or legal officer. The staff 3469
judge advocate or legal officer shall use the record in the 3470
preparation of a recommendation. The recommendation shall include 3471
any matters that the adjutant general may require by regulation 3472
and shall be served on the accused. The accused may submit any 3473
matter in response under division (B) of this section. If in the 3474
accused's response, the accused does not object to one or more 3475
matters contained in the recommendation, the accused waives the 3476
right to object to those matters. 3477

(E)(1) The convening authority or other authorized person, in 3478
the convening authority's or other authorized person's sole 3479
discretion, may order a proceeding in revision or a rehearing. 3480

(2) The convening authority or other authorized person may 3481
order a proceeding in revision if there is an apparent error or 3482
omission in the record of a court-martial or if the record shows 3483
improper or inconsistent action by a court-martial with respect to 3484
the findings or sentence that can be rectified without material 3485
prejudice to the substantial rights of the accused. In a 3486
proceeding in revision, the convening authority or other 3487
authorized person may not do any of the following: 3488

(a) Reconsider a finding of not guilty of any specification 3489
or a ruling that amounts to a finding of not guilty; 3490

(b) Reconsider a finding of not guilty of any charge, unless 3491
there has been a finding of guilty under a specification laid 3492
under that charge that sufficiently alleges a violation of any 3493
provision of this chapter; 3494

(c) Increase the severity of the sentence. 3495

(3) The convening authority or other authorized person may 3496
order a rehearing if the convening authority or other authorized 3497

person disapproves the findings or sentence and states the reasons 3498
for disapproval of the findings or sentence. If the convening 3499
authority or other authorized person disapproves the findings or 3500
sentence and does not order a rehearing, the convening authority 3501
or other authorized person shall dismiss the charges. A convening 3502
authority or other authorized person may not order a rehearing as 3503
to the findings if the record does not contain sufficient evidence 3504
to support the findings. A convening authority or other authorized 3505
person may order a rehearing as to the sentence if the convening 3506
authority or other authorized person disapproves the sentence. 3507

Sec. 5924.61. (A) An accused may appeal a finding of guilty 3508
or the sentence of a court-martial to the court of military 3509
appeals. The court shall hear an appeal if the convening authority 3510
or other authorized person approved a sentence of dismissal of a 3511
commissioned officer, dishonorable or bad conduct discharge, or 3512
confinement for one year or more and if the appeal was timely 3513
filed. The court may hear any other appeals that the court, in its 3514
sole discretion, allows. 3515

(B) An accused who is found guilty may appeal under this 3516
section by filing a notice of appeal with the convening authority 3517
that ordered the court-martial within thirty calendar days after 3518
the convening authority serves a copy of the approved findings and 3519
sentence on the trial attorney of record for the accused or, if 3520
the accused waived the right to counsel, on the accused in 3521
accordance with regulations prescribed by the adjutant general. 3522
The notice of appeal shall state the name of the party taking the 3523
appeal, the findings, sentence, or parts of the findings or 3524
sentence appealed from, and the grounds for the appeal. Failure to 3525
file a notice of appeal in a timely manner constitutes a waiver of 3526
the right to appeal. 3527

(C) Upon receiving a notice of appeal, the convening 3528

authority shall serve a copy of the notice on the trial counsel 3529
and on the trial attorney of record for any codefendant or, if a 3530
codefendant waived the right to counsel, on the codefendant in 3531
accordance with regulations prescribed by the adjutant general. 3532
The convening authority shall note on each copy served the date on 3533
which the notice of appeal was filed. Failure of the convening 3534
authority to serve a copy of the notice of appeal does not affect 3535
the validity of the appeal. Service in accordance with division 3536
(C) of this section is sufficient notwithstanding the death of a 3537
party or a party's counsel. The convening authority shall note on 3538
its docket the names of the parties served, the dates on which 3539
they were served, and the method of service. 3540

(D) An accused may waive appellate review by filing with the 3541
convening authority, within ten days after the action under 3542
section 5924.60 of the Revised Code is served on the accused or on 3543
defense counsel, a written waiver signed by the accused and by 3544
defense counsel. The convening authority or other person taking 3545
such action, for good cause, may extend the period for filing by 3546
not more than thirty days. 3547

(E) An accused may voluntarily withdraw an appeal at any time 3548
by filing a notice of withdrawal with the convening authority. 3549

(F) A waiver of the right to appellate review or the 3550
withdrawal of an appeal bars any further review under this section 3551
or section 5924.69 of the Revised Code. 3552

Sec. 5924.62. (A) In a trial by court-martial in which a 3553
military judge presides and in which a punitive discharge may be 3554
adjudged, the state may appeal any of the following, except an 3555
order or ruling that is, or that amounts to, a finding of not 3556
guilty with respect to the charge or specification: 3557

(1) An order or ruling that terminates the proceedings with 3558
respect to a charge or specification; 3559

<u>(2) An order or ruling that excludes evidence that is of</u>	3560
<u>substantial consequence to the determination of the material</u>	3561
<u>issues in the proceeding;</u>	3562
<u>(3) An order or ruling that directs the disclosure of</u>	3563
<u>classified information;</u>	3564
<u>(4) An order or ruling that imposes sanctions for</u>	3565
<u>nondisclosure of classified information;</u>	3566
<u>(5) A refusal by the military judge to issue a protective</u>	3567
<u>order sought by the state to prevent the disclosure of classified</u>	3568
<u>information;</u>	3569
<u>(6) A refusal by the military judge to enforce a protective</u>	3570
<u>order that has previously been issued by appropriate authority to</u>	3571
<u>prevent the disclosure of classified information.</u>	3572
<u>(B) The state may not appeal an order or ruling unless within</u>	3573
<u>seventy-two hours after the military judge serves the order or</u>	3574
<u>ruling the trial counsel files with the military judge a written</u>	3575
<u>notice of appeal from the order or ruling. The notice shall</u>	3576
<u>include a certification by the trial counsel that the appeal is</u>	3577
<u>not taken for the purpose of delay and, if the order or ruling</u>	3578
<u>appealed is one that excludes evidence, that the evidence excluded</u>	3579
<u>is substantial proof of a fact material in the proceeding.</u>	3580
<u>(C) Appellate government counsel shall diligently prosecute</u>	3581
<u>an appeal under this section to the court of military appeals</u>	3582
<u>created by section 5924.66 of the Revised Code.</u>	3583
<u>(D) Any period of delay resulting from an appeal under this</u>	3584
<u>section shall be excluded in deciding any issue regarding denial</u>	3585
<u>of a speedy trial unless an appropriate authority determines that</u>	3586
<u>the appeal was filed solely for the purpose of delay with the</u>	3587
<u>knowledge that it was totally frivolous and without merit.</u>	3588
Sec. 5924.63. (A) If the convening authority disapproves the	3589

~~findings and sentence of a court martial he may, except where 3590
there is lack of sufficient evidence in the record to support the 3591
findings, order a rehearing. In such a case he shall state the 3592
reasons for disapproval. If he disapproves the findings and 3593
sentence and does not order a rehearing, he shall dismiss the 3594
charges. 3595~~

~~(B) Each rehearing ordered pursuant to section 5924.60 of the 3596
Revised Code or by the court of military appeals shall take place 3597
before a court-martial composed of members who were not members of 3598
the court-martial ~~which~~ that first heard the case. Upon a 3599
rehearing the accused may not be tried for any offense of which ~~he~~ 3600
the accused was found not guilty by the first court-martial, and 3601
no sentence in excess of or more severe than the original sentence 3602
may be ~~imposed,~~ approved unless the sentence is based upon a 3603
finding of guilty of an offense not considered upon the merits in 3604
the original proceedings, or unless the sentence prescribed for 3605
the offense is mandatory. If the sentence approved after the first 3606
court-martial was in accordance with a pretrial agreement and the 3607
accused at the rehearing changes the accused's plea with respect 3608
to the charges or specifications upon which the pretrial agreement 3609
was based or otherwise does not comply with the pretrial 3610
agreement, the approved sentence as to those charges or 3611
specifications may include any punishment not in excess of the 3612
punishment lawfully adjudged at the first court-martial. 3613~~

Sec. 5924.64. (A) A judge advocate shall review pursuant to 3614
regulations prescribed by the adjutant general each case in which 3615
there has been a finding of guilty and in which no appeal is 3616
taken. A judge advocate may not review a case under this section 3617
if the judge advocate has acted in the same case as an accuser, 3618
investigating officer, member of the court, military judge, or 3619
counsel or has otherwise acted on behalf of the prosecution or 3620
defense. For each case reviewed under this section, the judge 3621

advocate shall issue written findings and recommendations that 3622
contain all of the following: 3623

(1) Conclusions as to whether the court had jurisdiction over 3624
the accused and the offense; 3625

(2) Conclusions as to whether the charge and specification 3626
stated an offense; 3627

(3) Conclusions as to whether the sentence was within the 3628
limits prescribed by law; 3629

(4) A response to each allegation of error made in writing by 3630
the accused; 3631

(5) If the case is sent for action under division (B) of this 3632
section, a recommendation as to the appropriate action to be taken 3633
and an opinion as to whether corrective action is required as a 3634
matter of law. 3635

(B) The record of trial and related documents in each case 3636
reviewed under division (A) of this section shall be sent for 3637
further action under division (C) of this section to the person 3638
exercising general court-martial jurisdiction over the accused at 3639
the time the court was convened or that person's successor in 3640
command if any of the following applies: 3641

(1) The judge advocate who reviewed the case recommends 3642
corrective action. 3643

(2) The sentence approved under division (C) of section 3644
5924.60 of the Revised Code includes dismissal, a bad-conduct or 3645
dishonorable discharge, or confinement for more than six months. 3646

(3) Regulations prescribed by the adjutant general require 3647
further review. 3648

(C) The person to whom the record of trial and related 3649
documents are sent under division (B) of this section may do any 3650
of the following: 3651

(1) Approve or disapprove the findings or sentence in whole or in part; 3652
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(2) Remit, commute, or suspend the sentence in whole or in part; 3654
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(3) Order a rehearing on the findings, the sentence, or both; 3656

(4) Dismiss the charges. 3657

(D) If a rehearing is ordered but the convening authority finds that a rehearing is impracticable, the convening authority shall dismiss the charges. 3658
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(E) If the opinion of the judge advocate who reviews a case under division (A) of this section finds that corrective action is required as a matter of law and the person required to take action under division (B) of this section does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the convening authority shall transmit the record of trial and action on that record to the state judge advocate for review. 3661
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(F) The judge advocate who under this section reviews a case conducted by a general court-martial shall be the state judge advocate. 3669
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Sec. 5924.65. If an accused files a notice of appeal, the convening authority shall transmit the record of trial and post-trial proceedings in the case to the state judge advocate for appropriate action. If the accused does not file a notice of appeal or files a notice of appeal and withdraws the appeal, then following completion of all post-trial review, the record of trial and related documents shall be transmitted and disposed of as the adjutant general may prescribe by regulation. 3672
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Sec. 5924.66. (A) There is hereby created the court of 3680

military appeals. The court is a court of record and has exclusive 3681
jurisdiction of all appeals from courts-martial convened pursuant 3682
to this code. The court shall sit in Franklin county. All hearings 3683
conducted by the court shall be public. 3684

(B) The judges of the court of military appeals shall be 3685
military appellate judges appointed by the adjutant general. Each 3686
judge shall be a retired judge advocate officer who has previously 3687
served in the rank of colonel or above in either the Ohio army 3688
national guard or the Ohio air national guard. The judges shall 3689
sit in panels of not less than three members. 3690

(C) The adjutant general may make rules governing practice 3691
and procedure in the court of military appeals. The Rules of 3692
Appellate Procedure apply in proceedings in the court to the 3693
extent that they are not inconsistent with this code or with rules 3694
made by the adjutant general under this division. 3695

Sec. 5924.67. A judge of the court of military appeals shall 3696
receive as compensation for each day of attendance on the business 3697
of the court an amount equal to the annual compensation of a judge 3698
of a court of appeals divided by the number of days in the 3699
calendar year. A judge who resides more than fifty miles from the 3700
location of the court also shall be reimbursed for the judge's 3701
actual and necessary expenses of traveling to and from the court 3702
to attend the business of the court. 3703

Sec. 5924.68. The court of military appeals may subpoena 3704
witnesses, require the production of evidence, and punish for 3705
contempt in the same manner and to the same extent as a common 3706
pleas court. 3707

Sec. 5924.69. Appeals from orders and judgments of the court 3708
of military appeals may be taken to the supreme court in the same 3709
manner and to the same extent as criminal appeals from orders and 3710

judgments of a court of appeals. 3711

Sec. 5924.70. (A) The state judge advocate shall detail one 3712
or more judge advocates as appellate government counsel and one or 3713
more judge advocates assigned to the United States army trial 3714
defense service or the United States air force area defense 3715
counsel as appellate defense counsel. Appellate counsel shall be 3716
members in good standing of the bar of this state and certified by 3717
the state judge advocate to be competent to act as appellate 3718
counsel. 3719

(B) Appellate government counsel shall represent the state in 3720
the court of military appeals. In a case arising under this code 3721
that is heard in the supreme court, appellate government counsel 3722
shall represent the state in the supreme court unless the attorney 3723
general elects to represent the state. 3724

(C) Appellate defense counsel shall represent the accused in 3725
the court of military appeals and the supreme court unless the 3726
accused elects to be represented by civilian counsel at the 3727
accused's own expense. 3728

(D) Appellate government and defense counsel shall perform 3729
any additional functions in connection with post-trial proceedings 3730
in court-martial cases that the state judge advocate directs. 3731

Sec. 5924.71. (A) If the sentence of a court-martial of a 3732
commissioned officer or cadet includes dismissal, that part of the 3733
sentence providing for dismissal may not be executed until it is 3734
approved by the adjutant general. The adjutant general may 3735
commute, remit, or suspend the sentence or any part of the 3736
sentence as the adjutant general sees fit. In time of war or 3737
national emergency, the adjutant general may commute a sentence of 3738
dismissal to reduction to any enlisted grade. A person so reduced 3739
may be required to serve for the duration of the war or emergency 3740

and for six months after the end of the war or emergency. 3741

(B)(1) If the sentence of a court-martial includes dismissal or dishonorable or bad-conduct discharge and the accused appeals to the court of military appeals, the dismissal or discharge part of the sentence may not be executed until the appellate process has been completed and, in case of dismissal, approval of the sentence by the adjutant general. The appellate process is completed when any of the following occurs: 3742
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(a) The accused withdraws the appeal. 3749

(b) The court of military appeals renders a decision, and the time for filing a notice of appeal to the supreme court elapses without the accused having filed a notice of appeal. 3750
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(c) The supreme court issues an order dismissing the appeal or entering judgment on the leave to appeal. 3753
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(2) If the sentence of a court-martial includes dismissal or dishonorable or bad-conduct discharge and the accused fails to appeal to the court of military appeals, waives appellate review, or withdraws an appeal, the dismissal or discharge part of the sentence may not be executed until a judge advocate has reviewed the case and the convening authority has completed action in the review pursuant to section 5924.64 of the Revised Code. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section 5924.60 of the Revised Code. 3755
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(C) The convening authority or other person taking action on a court-martial case under section 5924.60 of the Revised Code may suspend at any time the execution of any sentence or part of a sentence. 3765
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Sec. 5924.72. (A) An officer having special court-martial jurisdiction over a person whose sentence has been suspended may 3769
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recommend vacation of the suspension of an approved sentence or 3771
part of a sentence that was imposed by a special court-martial and 3772
includes a bad-conduct discharge or that was imposed by a general 3773
court-martial. 3774

~~(B)~~ Before ~~the vacation of~~ vacating the suspension of a 3775
~~special court-martial sentence which as approved includes a bad~~ 3776
~~conduct discharge, or of any general court-martial or part of a~~ 3777
sentence under division (A) of this section, ~~the~~ an officer having 3778
special court-martial jurisdiction over ~~the probationer~~ a person 3779
whose sentence has been suspended shall hold a hearing on the 3780
alleged violation of ~~probation~~ the terms of suspension. The 3781
~~probationer shall~~ person has the right to be represented at the 3782
hearing by counsel ~~if he so desires.~~ 3783

~~(B)~~~~(C)~~ The record of the hearing and the recommendation of 3784
the officer having special court-martial jurisdiction shall be 3785
sent for action to the ~~governor in cases involving a~~ officer 3786
exercising general court-martial ~~sentence and to the commanding~~ 3787
~~officer of the force of the organized militia of which~~ 3788
jurisdiction over the probationer ~~is a member in all other cases~~ 3789
~~covered by division (A) of this section~~ person whose sentence has 3790
been suspended. If ~~the governor or commanding~~ that officer vacates 3791
the suspension, any unexecuted part of the sentence except a 3792
dismissal shall be executed, subject to applicable restrictions 3793
set forth in section 5924.71 of the Revised Code. A vacation of 3794
the suspension of a dismissal is not effective until it is 3795
approved by the adjutant general. 3796

~~(C)~~~~(D)~~ The suspension of any other sentence may be vacated by 3797
any authority competent to convene, for the command in which the 3798
accused is serving or assigned, a court of the kind that imposed 3799
the sentence. 3800

Sec. 5924.73. At any time within two years after approval by 3801

the convening authority of a court-martial sentence, the accused 3802
may petition the ~~governor~~ adjutant general for a new trial on the 3803
ground of newly discovered evidence or fraud on the court-~~martial~~. 3804
The adjutant general shall act upon the petition unless the case 3805
is pending before the court of military appeals or the supreme 3806
court, in which case the adjutant general shall refer the petition 3807
to the court in which the appeal is pending. 3808

Sec. 5924.74. (A) ~~A~~ The adjutant general, the state judge 3809
advocate when authorized by the adjutant general, or a convening 3810
authority may remit or suspend any part or amount of the 3811
unexecuted part of any sentence, including all uncollected 3812
forfeitures, other than a sentence approved by the governor or a 3813
superior convening authority. 3814

(B) The ~~governor~~ adjutant general may, for good cause, 3815
substitute an administrative form of discharge for a discharge or 3816
dismissal executed in accordance with the sentence of a 3817
court-martial. 3818

Sec. 5924.75. (A) Under ~~such~~ any regulations ~~as~~ that the 3819
~~governor~~ adjutant general may prescribe, all rights, privileges, 3820
and property affected by an executed part of a court-martial 3821
sentence ~~which~~ that has been set aside or disapproved, except an 3822
executed dismissal or discharge, shall be restored unless a new 3823
trial or rehearing is ordered and ~~such~~ the executed part of the 3824
sentence is included in a sentence imposed upon the new trial or 3825
rehearing. 3826

(B) If a previously executed sentence of dishonorable or bad 3827
conduct discharge is not imposed on a new trial, the ~~governor~~ 3828
adjutant general shall substitute therefor a form of discharge 3829
authorized for administrative issuance unless the accused is to 3830
serve out the remainder of ~~his~~ the accused's enlistment. 3831

(C) If a previously executed sentence of dismissal is not 3832
imposed on a new trial, the ~~governor~~ adjutant general shall 3833
substitute therefor a form of discharge authorized for 3834
administrative issue, and the commissioned officer dismissed by 3835
that sentence may be reappointed by the ~~governor~~ adjutant general 3836
alone to such commissioned grade and with such rank as in the 3837
opinion of the ~~governor~~ adjutant general that former officer would 3838
have attained had ~~he~~ the former officer not been dismissed. The 3839
reappointment of such a former officer ~~may~~ shall be made ~~if~~ 3840
without regard to the existence of a position vacancy is available 3841
under applicable tables and shall affect the promotion status of 3842
organization other officers only to the extent directed by the 3843
adjutant general. All time between the dismissal and the 3844
reappointment shall be considered as service for all purposes 3845
including the right to pay and allowances. 3846

(D) Pursuant to regulations prescribed by the adjutant 3847
general, an accused who has been sentenced by a court-martial may 3848
be required to take leave pending completion of action under this 3849
code if the sentence, as approved under section 5924.60 of the 3850
Revised Code, includes an unsuspended dismissal or an unsuspended 3851
dishonorable or bad-conduct discharge. The accused may be required 3852
to begin leave on the date on which the sentence is approved or at 3853
any time after that date. Leave may be continued until the date on 3854
which action is completed or may be terminated at any earlier 3855
time. 3856

Sec. 5924.76. The appellate review of records of trial 3857
pursuant to this code, the proceedings, findings, and sentences of 3858
courts-martial as ~~reviewed and approved, as required by~~ reviewed, 3859
or affirmed pursuant to this code, and all dismissals and 3860
discharges carried into execution under sentences by 3861
courts-martial following ~~review and approval, as required by~~ 3862
review, or affirmation pursuant to this code, are final and 3863

conclusive. Orders publishing the proceedings of courts-martial 3864
and all action taken pursuant to those proceedings are binding 3865
upon all departments, courts, agencies, and officers of the state, 3866
subject only to action upon a petition for a new trial as provided 3867
in section 5924.73 of the Revised Code and to action by the 3868
adjutant general under section 5924.74 of this code the Revised 3869
Code. 3870

Sec. 5924.761. Pursuant to regulations prescribed by the 3871
adjutant general, an accused who has been sentenced by a 3872
court-martial may be required to take leave pending completion of 3873
action under sections 5924.59 to 5924.761 of the Revised Code if 3874
the sentence, as approved under section 5924.60 of the Revised 3875
Code, includes an unsuspended dismissal or an unsuspended 3876
dishonorable or bad-conduct discharge. The accused may be required 3877
to begin the leave on the date on which the sentence is approved 3878
under section 5924.60 of the Revised Code or at any time after 3879
that date, and the leave may be continued until the date on which 3880
action under sections 5924.59 to 5924.761 of the Revised Code is 3881
terminated or completed. 3882

Sec. 5924.77. Any person subject to this code is a principal 3883
~~who~~ if the person does either of the following: 3884

(A) Commits an offense punishable by this code, or aids, 3885
abets, counsels, commands, or procures its commission; 3886

(B) Causes an act to be done which if directly performed by 3887
~~him~~ the person would be punishable by this code. 3888

Sec. 5924.78. Any person subject to this code who, knowing 3889
that an offense punishable by this code has been committed, 3890
receives, comforts, or assists the offender in order to hinder or 3891
prevent ~~his~~ the offender's apprehension, trial, or punishment 3892
shall be punished as a court-martial may direct. 3893

Sec. 5924.82. (A) Any person subject to this code who 3894
solicits or advises another or others to desert in violation of 3895
section 5924.85 of the Revised Code and of this code or mutiny in 3896
violation of section 5924.94 of the Revised Code and of this code 3897
shall, if the offense solicited or advised is attempted or 3898
committed, be punished with the punishment provided for the 3899
commission of the offense, but, if the offense solicited or 3900
advised is not committed or attempted, ~~he~~ the person shall be 3901
punished as a court-martial may direct. 3902

(B) Any person subject to this code who solicits or advises 3903
another or others to commit an act of ~~misbehavior before the enemy~~ 3904
~~in violation of section 5924.99 of the Revised Code and of this~~ 3905
~~code or~~ sedition in violation of section 5924.94 of the Revised 3906
Code and of this code shall, if the offense solicited or advised 3907
is committed, be punished with the punishment provided for the 3908
commission of the offense, but, if the offense solicited or 3909
advised is not committed, ~~he~~ the person shall be punished as a 3910
court-martial may direct. 3911

Sec. 5924.83. Any person who does either of the following 3912
shall be punished as a court-martial may direct: 3913

(A) Procures ~~his~~ the person's own enlistment or appointment 3914
in the organized militia by knowingly false representation or 3915
deliberate concealment as to ~~his~~ the person's qualifications for 3916
that enlistment or appointment and receives pay or allowances 3917
thereunder; ~~or~~ 3918

(B) Procures ~~his~~ the person's own separation from the 3919
organized militia by knowingly false representation or deliberate 3920
concealment as to ~~his~~ the person's eligibility for that 3921
separation; 3922
~~shall be punished as a court-martial may direct.~~ 3923

Sec. 5924.84. Any person subject to this code who effects an 3924
enlistment or appointment in or a separation from the organized 3925
militia of any person who is known to ~~him~~ the person to be 3926
ineligible for that enlistment, appointment, or separation because 3927
it is prohibited by law, regulation, or order shall be punished as 3928
a court-martial may direct. 3929

Sec. 5924.85. (A) Any member of the organized militia who 3930
does any of the following is guilty of desertion: 3931

(1) Without authority goes or remains absent from ~~his~~ the 3932
member's unit, organization, or place of duty with intent to 3933
remain away ~~therefrom~~ from the unit, organization, or place of 3934
duty permanently; 3935

(2) Quits ~~his~~ the member's unit, organization, or place of 3936
duty with intent to avoid hazardous duty or to shirk important 3937
service; ~~or~~ 3938

(3) Without being regularly separated from one of the forces 3939
of the organized militia enlists or accepts an appointment in the 3940
same or another one of the forces of the organized militia without 3941
fully disclosing the fact that ~~he~~ the member has not been 3942
regularly separated; 3943

~~is guilty of desertion~~ 3944

(4) Without being regularly separated from one of the forces 3945
of the organized militia enters any foreign armed services without 3946
the authorization of the United States. 3947

(B) Any commissioned officer of the organized militia who, 3948
after tender of ~~his~~ the commissioned officer's resignation and 3949
before notice of its acceptance, quits ~~his~~ the commissioned 3950
officer's post or proper duties without leave and with intent to 3951
remain away therefrom permanently is guilty of desertion. 3952

(C) Any person found guilty of desertion or attempt to desert 3953
shall be punished, ~~if the offense is committed in time of war, by~~ 3954
~~death or such other punishment as a court martial may direct, but~~ 3955
~~if the desertion or attempt to desert occurs at any other time, by~~ 3956
~~such punishment, other than death, as a court-martial may direct.~~ 3957

Sec. 5924.86. Any person subject to this code who, without 3958
authority, does any of the following shall be punished as a 3959
court-martial may direct: 3960

(A) Fails to go to ~~his~~ the person's appointed place of duty 3961
at the time prescribed; 3962

(B) Goes from ~~his~~ the person's appointed place of duty; ~~or~~ 3963

(C) Absents ~~himself~~ self or remains absent from ~~his~~ the 3964
person's unit, organization, or place of duty at which ~~he~~ the 3965
person is required to be at the time prescribed; ~~shall be punished~~ 3966
~~as a court martial may direct.~~ 3967

Sec. 5924.87. Any person subject to this code who through 3968
neglect or design misses the movement of a ship, aircraft, or unit 3969
with which ~~he~~ the person is required in the course of duty to move 3970
shall be punished as a court-martial may direct. 3971

Sec. 5924.88. Any ~~person subject to this code~~ commissioned 3972
officer who uses contemptuous words against ~~the president,~~ the 3973
governor, or the legislature, ~~or the governor or legislature of~~ 3974
any this state, territory, commonwealth, or possession wherein 3975
~~that person may be serving,~~ shall be punished as a court-martial 3976
may direct. 3977

Sec. 5924.89. Any person subject to this code who behaves 3978
with disrespect toward ~~his~~ the person's superior commissioned 3979
officer shall be punished as a court-martial may direct. 3980

Sec. 5924.90. Any person subject to this code who does either 3981
of the following shall be punished as a court-martial may direct: 3982

3983

(A) Strikes ~~his~~ the person's superior commissioned officer or 3984
draws or lifts up any weapon or offers any violence against ~~him~~ 3985
the person's superior commissioned officer while ~~he~~ that officer 3986
is in the execution of ~~his office~~ official duties; ~~or~~ 3987

(B) Willfully disobeys a lawful command of ~~his~~ the person's 3988
superior commissioned officer; 3989

~~shall be punished as a court martial may direct.~~ 3990

Sec. 5924.91. Any warrant officer or enlisted member who does 3991
any of the following shall be punished as a court-martial may 3992
direct: 3993

(A) Strikes or assaults a warrant officer, or noncommissioned 3994
officer, ~~or petty officer,~~ while that officer is in the execution 3995
of ~~his office~~ official duties; 3996

(B) Willfully disobeys the lawful order of a warrant officer, 3997
or noncommissioned officer, ~~or petty officer;~~ ~~or~~ 3998

(C) Treats with contempt or is disrespectful in language or 3999
deportment toward a warrant officer, or noncommissioned officer, 4000
~~or petty officer,~~ while that officer is in the execution of ~~his~~ 4001
~~office;~~ 4002

~~shall be punished as a court martial may direct~~ official duties. 4003

Sec. 5924.92. Any person subject to this code who does any of 4004
the following shall be punished as a court-martial may direct: 4005

(A) Violates or fails to obey any lawful general order or 4006
regulation; 4007

(B) Having knowledge of any other lawful order issued by a 4008

member of the organized militia, ~~which it~~ that is his the person's 4009
duty to obey, fails to obey the order; ~~or~~ 4010

(C) Is derelict in the performance of ~~his~~ the person's 4011
duties; 4012

~~shall be punished as a court martial may direct.~~ 4013

Sec. 5924.93. Any person subject to this code who is guilty 4014
of cruelty toward, or oppression or maltreatment of, any other 4015
person subject to ~~his~~ the person's orders shall be punished as a 4016
court-martial may direct. 4017

Sec. 5924.94. (A) (1) Any person subject to this code who; 4018

~~(1) With,~~ with intent to usurp or override lawful military 4019
authority, refuses, in concert with any other person, to obey 4020
orders or otherwise do ~~his~~ the person's duty or creates any 4021
violence or disturbance is guilty of mutiny; 1 4022

(2) ~~With~~ Any person subject to this code who, with intent to 4023
cause the overthrow or destruction of lawful civil authority, 4024
creates, in concert with any other person, revolt, violence, or 4025
other disturbance against that authority is guilty of sedition; 1 4026

(3) ~~Fails~~ Any person subject to this code who fails to do ~~his~~ 4027
the person's utmost to prevent and suppress a mutiny or sedition 4028
being committed in ~~his~~ the person's presence, or fails to take all 4029
reasonable means to inform ~~his~~ the person's superior commissioned 4030
officer or commanding officer of a mutiny or sedition ~~which he~~ 4031
that the person knows or has reason to believe is taking place, is 4032
guilty of a failure to suppress or report a mutiny or sedition. 4033

(B) A person who is found guilty of attempted mutiny, mutiny, 4034
sedition, or failure to suppress or report a mutiny or sedition 4035
shall be punished ~~by death or such other punishment~~ as a 4036
court-martial may direct. 4037

Sec. 5924.95. Any person subject to this code who resists 4038
apprehension ~~or, flees from apprehension,~~ breaks arrest, or ~~who~~ 4039
escapes from ~~physical restraint lawfully imposed~~ custody or 4040
confinement shall be punished as a court-martial may direct. 4041

Sec. 5924.96. Any person subject to this code who, without 4042
proper authority, releases any prisoner committed to ~~his~~ the 4043
person's charge, or who through neglect or design suffers any ~~such~~ 4044
prisoner committed to the person's charge to escape, shall be 4045
punished as a court-martial may direct, whether or not the 4046
prisoner was committed in strict compliance with law. 4047

Sec. 5924.97. Any person subject to this code, who, except as 4048
provided by law ~~or regulation,~~ apprehends, arrests, or confines 4049
any person shall be punished as a court-martial may direct. 4050

Sec. 5924.98. Any person subject to this code who: 4051

~~(A) Is~~ is responsible for unnecessary delay in the 4052
disposition of any case of a person accused of an offense under 4053
this code; or 4054

~~(B) Knowingly~~ who knowingly and intentionally fails to 4055
enforce or comply with any provision of this code regulating the 4056
proceedings before, during, or after trial of an accused; 4057
shall be punished as a court-martial may direct. 4058

Sec. 5924.103. (A) All persons subject to this code shall 4059
secure all ~~public~~ property taken from the enemy for the service of 4060
the United States, and this state and shall give notice and turn 4061
over to the proper authority without delay all captured or 4062
abandoned property in their possession, custody, or control. 4063

(B) Any person subject to this code who does any of the 4064

following shall be punished as a court-martial may direct: 4065

(1) Fails to carry out the duties prescribed in division (A) 4066
of this section; 4067

(2) Buys, sells, trades, or in any way deals in or disposes 4068
of captured or abandoned property, whereby ~~he~~ the person receives 4069
or expects any profit, benefit, or advantage to ~~himself~~ self or 4070
another directly or indirectly connected with ~~himself~~ self; ~~or~~ 4071

(3) Engages in looting or pillaging; 4072
~~shall be punished as a court martial may direct.~~ 4073

Sec. 5924.108. Any person subject to this code who, without 4074
proper authority, does any of the following with regard to any 4075
military property of the United States or of this state shall be 4076
punished as a court-martial may direct: 4077

(A) Sells or otherwise disposes of the property; 4078

(B) Willfully or through neglect damages, destroys, or loses 4079
the property; ~~or~~ 4080

(C) Willfully or through neglect suffers to be lost, damaged, 4081
destroyed, sold, or wrongfully disposed of; 4082
~~any military property of the United States or of the state, shall~~ 4083
~~be punished as a court martial may direct~~ the property. 4084

Sec. 5924.109. Any person subject to this code who, ~~while in~~ 4085
~~a duty status~~, willfully or recklessly wastes, spoils, or 4086
otherwise willfully and wrongfully destroys or damages any 4087
property other than military property of the United States or of 4088
the state shall be punished as a court-martial may direct. 4089

Sec. 5924.111. ~~Any~~ (A) Subject to division (B) of this 4090
section, any person subject to this code who ~~operates~~ does any of 4091
the following shall be punished as a court-martial may direct: 4092

(1) Operates or physically controls any vehicle while drunk, 4093
or, aircraft, or vessel in a reckless or wanton manner, shall be 4094
punished as a court martial may direct; 4095

(2) Operates or physically controls any vehicle, aircraft, or 4096
vessel while under the influence of alcohol, a drug of abuse, or a 4097
combination of them; 4098

(3) Operates or physically controls any vehicle, aircraft, or 4099
vessel while having in the person's whole blood, blood serum or 4100
plasma, breath, or urine the minimum concentrations of alcohol set 4101
forth in divisions (A)(1)(b) to (A)(1)(i) of section 4511.19 of 4102
the Revised Code; 4103

(4) Operates or physically controls any vehicle, aircraft, or 4104
vessel while having in the person's whole blood, blood serum or 4105
plasma, or urine the concentrations of controlled substances or 4106
metabolites of a controlled substance set forth in division 4107
(A)(1)(j) of section 4511.19 of the Revised Code. 4108

(B) If a military installation is located partially in this 4109
state and partially in one or more other states, the adjutant 4110
general may select the alcohol and controlled substance levels set 4111
forth in the impaired operating laws of one of the other states to 4112
apply on the installation in place of the levels set forth in 4113
division (A) of this section. 4114

Sec. 5924.1121. (A) As used in this section, "prohibited 4115
substance" means any of the following: 4116

(1) Opium, heroin, cocaine, amphetamine, lysergic acid 4117
diethylamide, methamphetamine, phencyclidine, barbituric acid, or 4118
marihuana or any compound or derivative of any of those 4119
substances; 4120

(2) Any substance not specified in division (A)(1) of this 4121
section that the adjutant general lists on a schedule of 4122

controlled substances or that is listed on a schedule established 4123
under section 202 of the Federal Controlled Substances Act, 21 4124
U.S.C. 812, 84 Stat. 1247, as amended. 4125

(B) A person subject to this code who wrongfully uses, 4126
possesses, manufactures, distributes, imports into the customs 4127
territory of the United States, exports from the United States, or 4128
introduces into an installation, vessel, vehicle, or aircraft used 4129
by or under the control of the armed forces of the United States 4130
or of the organized militia a prohibited substance shall be 4131
punished as a court-martial may direct. 4132

Sec. 5924.113. Any sentinel or lookout who is found drunk or 4133
sleeping on ~~his~~ the sentinel's or lookout's post, or leaves it 4134
before ~~he~~ the sentinel or lookout is regularly relieved, shall be 4135
punished, ~~if the offense is committed in time of war, by death or~~ 4136
~~such other punishment as a court martial may direct, but if the~~ 4137
~~offense is committed at any other time, by such punishment other~~ 4138
~~than death~~ as a court-martial may direct. 4139

Sec. 5924.115. Any person subject to this code who for the 4140
purpose of avoiding work, duty, or service in the organized 4141
militia does either of the following shall be punished as a 4142
court-martial may direct: 4143

(A) Feigns illness, physical disablement, mental lapse, or 4144
derangement; ~~or~~ 4145

(B) Intentionally inflicts self-injury; 4146
~~shall be punished as a court martial may direct.~~ 4147

Sec. 5924.120. (A) As used in this section: 4148

(1) "Affirmative defense" means any special defense that, 4149
although not denying that the accused committed the objective acts 4150
constituting the offense charged, denies, in whole or in part, 4151

<u>criminal responsibility for those acts.</u>	4152
<u>(2) "Bodily harm" means any offensive touching of another,</u>	4153
<u>however slight, that does not result in grievous bodily harm.</u>	4154
<u>(3) "Consent" means words or overt acts indicating a freely</u>	4155
<u>given agreement to the sexual conduct at issue by a competent</u>	4156
<u>person.</u>	4157
<u>(4) "Dangerous weapon or object" means any of the following:</u>	4158
<u>(a) Any firearm, whether loaded or not and whether operable</u>	4159
<u>or not;</u>	4160
<u>(b) Any other weapon, device, instrument, material, or</u>	4161
<u>substance, whether animate or inanimate, that as used or intended</u>	4162
<u>to be used is known to be capable of producing death or grievous</u>	4163
<u>bodily harm;</u>	4164
<u>(c) Any object fashioned or used in such a manner as to lead</u>	4165
<u>a person on whom the object is used or threatened to be used to</u>	4166
<u>reasonably believe under the circumstances that the object is</u>	4167
<u>capable of producing death or grievous bodily harm.</u>	4168
<u>(5) "Force" means action to compel submission of another or</u>	4169
<u>to overcome or prevent another's resistance by either of the</u>	4170
<u>following:</u>	4171
<u>(a) The use, display, or suggestion of possession of a</u>	4172
<u>dangerous weapon or object;</u>	4173
<u>(b) Physical violence, strength, power, or restraint applied</u>	4174
<u>to another person sufficient to prevent the other person from</u>	4175
<u>avoiding or escaping sexual contact.</u>	4176
<u>(6) "Grievous bodily harm" means serious bodily injury,</u>	4177
<u>including but not limited to fractured or dislocated bones, deep</u>	4178
<u>cuts, torn members of the body, and serious damage to internal</u>	4179
<u>organs.</u>	4180
<u>(7) "Indecent conduct" means that form of immorality relating</u>	4181

to sexual impurity that is grossly vulgar, obscene, and repugnant 4182
to common propriety and tends to excite sexual desire or deprave 4183
morals with respect to sexual relations. Indecent conduct includes 4184
observing or making a videotape, photograph, motion picture, 4185
print, negative, slide, or other mechanically, electronically, or 4186
chemically reproduced visual material, without another person's 4187
consent and contrary to that other person's reasonable expectation 4188
of privacy, of either of the following: 4189

(a) That other person's genitalia, anus, or buttocks, or, if 4190
that other person is female, that person's areola or nipple; 4191

(b) That other person while that other person is engaged in a 4192
sexual act, sexual contact, or sodomy. 4193

(8) "Lesser degree of harm" means any of the following: 4194

(a) Physical injury to the person or property of a person 4195
other than the victim of the offense; 4196

(b) A threat to do any of the following: 4197

(i) Accuse any person of a crime; 4198

(ii) Expose a secret or publicize an asserted fact, whether 4199
true or false, tending to subject some person to hatred, contempt, 4200
or ridicule; 4201

(iii) Through the use or abuse of military position, rank, or 4202
authority, to affect or threaten to affect, either positively or 4203
negatively, the military career of some person. 4204

(9) "Mistake of fact as to consent" means a belief that is 4205
incorrect, as a result of ignorance or mistake, that a person 4206
engaging in sexual conduct consented to engage in that conduct, if 4207
both of the following apply: 4208

(a) The ignorance or mistake existed in the mind of the 4209
accused at the time the sexual conduct in issue occurred and was 4210
based on information or lack of information that would have 4211

indicated to a reasonable person that the other person consented; 4212

(b) The ignorance or mistake was not based on the accused's 4213
failure to discover facts that a reasonably careful person would 4214
have discovered under the same or similar circumstances. 4215

(10) "Sexual act" means either of the following: 4216

(a) Contact between the penis and the vulva, including any 4217
penetration, however slight; 4218

(b) Anal intercourse, fellatio, and cunnilingus between 4219
persons, regardless of sex; 4220

(c) The penetration, however slight, of the genital opening 4221
of another by a hand or finger or any object with an intent to 4222
abuse, humiliate, harass, or degrade any person or to arouse or 4223
gratify the sexual desire of any person. 4224

(11) "Sexual contact" means the intentional touching, either 4225
directly or through clothing, of the genitalia, anus, groin, 4226
breast, inner thigh, or buttocks of another person with an intent 4227
to abuse, humiliate, or degrade any person or to arouse or gratify 4228
the sexual desire of any person. 4229

(12) "Sexual conduct" means any act that is prohibited by 4230
this section. 4231

(13)(a) For purposes of divisions (B) and (D) of this 4232
section, "threatening or placing that other person in fear" means 4233
making a communication or performing an action of sufficient 4234
consequence to cause that other person to reasonably fear that 4235
noncompliance will result in that person or another being 4236
subjected to death, grievous bodily harm, or kidnapping. 4237

(b) For purposes of divisions (C) and (E) of this section, 4238
"threatening or placing that other person in fear" means making a 4239
communication or performing an action of sufficient consequence to 4240
cause a victim of the offense to reasonably fear that 4241

noncompliance will result in the victim or another being subjected 4242
to a lesser degree of harm than death, grievous bodily harm, or 4243
kidnapping. 4244

(B) Any person subject to this chapter who causes another 4245
person of any age to engage in a sexual act by doing any of the 4246
following is guilty of rape and shall be punished as a 4247
court-martial may direct: 4248

(1) Using force against that other person; 4249

(2) Causing grievous bodily harm to any person; 4250

(3) Threatening or placing that other person in fear; 4251

(4) Rendering another person unconscious; 4252

(5) Administering to another person by force or threat of 4253
force, or without the knowledge or permission of that person, a 4254
drug, intoxicant, or other similar substance that substantially 4255
impairs the ability of that other person to appraise or control 4256
conduct. 4257

(C) Any person subject to this chapter who does either of the 4258
following is guilty of aggravated sexual assault and shall be 4259
punished as a court-martial may direct: 4260

(1) Causes another person of any age to engage in a sexual 4261
act by doing either of the following: 4262

(a) Threatening or placing that other person in fear; 4263

(b) Causing bodily harm. 4264

(2) Engages in a sexual act with another person of any age if 4265
that other person is substantially incapable of doing any of the 4266
following: 4267

(a) Appraising the nature of the sexual act; 4268

(b) Declining to participate in the sexual act; 4269

(c) Communicating unwillingness to engage in the sexual act. 4270

(D) Any person subject to this chapter who engages in sexual contact or causes sexual contact with or by another person by doing any of the following is guilty of aggravated sexual contact and shall be punished as a court-martial may direct: 4271
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4274

(1) Using force against that other person; 4275

(2) Causing grievous bodily harm to any person; 4276

(3) Threatening or placing that other person in fear; 4277

(4) Rendering another person unconscious; 4278

(5) Administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control conduct. 4279
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(E) Any person subject to this chapter who does either of the following is guilty of abusive sexual contact and shall be punished as a court-martial may direct: 4284
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(1) Engages in or causes sexual contact with or by another person by doing either of the following: 4287
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(a) Threatening or placing that other person in fear; 4289

(b) Causing bodily harm. 4290

(2) Engages in sexual contact with another person of any age if that other person is substantially incapable of doing any of the following: 4291
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4293

(a) Appraising the nature of the sexual contact; 4294

(b) Declining to participate in the sexual contact; 4295

(c) Communicating unwillingness to engage in the sexual contact. 4296
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(F) Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be 4298
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punished as a court-martial may direct. 4300

(G) Any person subject to this chapter who, without legal 4301
justification or lawful authorization, engages in sexual contact 4302
with another person without that other person's permission is 4303
guilty of wrongful sexual contact and shall be punished as a 4304
court-martial may direct. 4305

(H) Any person subject to this chapter who intentionally 4306
exposes, in an indecent manner, in any place where the conduct 4307
involved may reasonably be expected to be viewed by people other 4308
than members of the person's family or household, the person's 4309
genitalia, anus, buttock, or female areola or nipple is guilty of 4310
indecent exposure and shall be punished as a court-martial may 4311
direct. 4312

(I) In a prosecution under this section, in proving that the 4313
accused made a threat, it need not be proven that the accused 4314
actually intended to carry out the threat. 4315

(J)(1) In a prosecution under division (C)(2), (G), or (H) of 4316
this section, it is an affirmative defense that the accused and 4317
the other person, when they engaged in the sexual conduct were 4318
married to each other. 4319

(2) Division (J)(1) of this section does not apply if the 4320
accused's intent at the time of the sexual conduct is to abuse, 4321
humiliate, or degrade any person. 4322

(K)(1) Lack of permission is an element of the offense under 4323
division (G) of this section. Consent and mistake of fact as to 4324
consent are affirmative defenses only to the sexual conduct in 4325
issue in a prosecution under division (B), (C), (D), or (E) of 4326
this section. 4327

(2) The enumeration in this section of some affirmative 4328
defenses shall not be construed as excluding the existence of 4329
other affirmative defenses. 4330

(3) The accused has the burden of proving an affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution has the burden of proving beyond a reasonable doubt that the affirmative defense did not exist. 4331
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(L)(1) An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from an accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of a person involved with the accused in the sexual conduct does not constitute consent. 4335
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(2) A person cannot consent to sexual conduct if the person is substantially incapable of any of the following: 4342
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(a) Appraising the nature of the sexual conduct due to mental impairment or unconsciousness resulting from consumption of alcohol, drugs, or a similar substance or any other cause or to mental disease or defect that renders the person unable to understand the nature of the sexual conduct; 4344
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(b) Physically declining to participate in the sexual conduct; 4349
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(c) Physically communicating unwillingness to engage in the sexual conduct. 4351
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(M) An accused's state of intoxication, if any, at the time of an offense under this section occurs is not relevant to the existence of a mistake of fact as to consent. 4353
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Sec. 5924.128. (A) Any person subject to this code who 4356
attempts or offers with unlawful force or violence to do bodily 4357
harm to another person, whether or not the attempt or offer is 4358
consummated, is guilty of assault and shall be punished as a 4359
court-martial may direct. 4360

(B) Any person subject to this code who does either of the 4361
following is guilty of aggravated assault and shall be punished as 4362
a court-martial may direct: 4363

(1) Commits an assault with a dangerous weapon or other means 4364
or force likely to produce death or grievous bodily harm; ~~or~~ 4365

(2) Commits an assault and intentionally inflicts grievous 4366
bodily harm with or without a weapon; 4367

~~is guilty of aggravated assault and shall be punished as a~~ 4368
~~court-martial may direct.~~ 4369

Sec. 5924.131. Any person subject to this code who, in a 4370
judicial proceeding or in a course of justice conducted under this 4371
code, willfully and corruptly ~~gives, upon~~ does either of the 4372
following is guilty of perjury and shall be punished as a 4373
court-martial may direct: 4374

(A) Upon a lawful oath or in any form allowed by law to be 4375
substituted for an oath, gives any false testimony material to the 4376
issue or matter of inquiry ~~is guilty of perjury and shall be~~ 4377
~~punished as a court-martial may direct;~~ 4378

(B) In any declaration, certification, verification, or 4379
statement made under penalty of perjury subscribes any false 4380
statement material to the issue or matter of inquiry. 4381

Sec. 5924.132. Any person subject to this code who does any 4382
of the following shall be punished as a court-martial may direct: 4383

(A) ~~Who, knowing it~~ Knowing a claim to be false or fraudulent 4384
does either of the following: 4385

(1) Makes any claim against the United States, the state, or 4386
any officer ~~thereof~~ of the United States or the state; ~~or~~ 4387

(2) Presents to any person in the civil or military service 4388
~~thereof~~ of the United States or the state, for approval or 4389

payment, any claim against the United States, the state, or any officer ~~thereof~~ of the United States or the state; 4390
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(B) ~~Who, for~~ For the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer ~~thereof~~ of the United States or the state does any of the following: 4392
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(1) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements; 4396
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(2) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; ~~or~~ 4398
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(3) Forges or counterfeits any signature upon any writing or other paper, ~~or~~ uses any ~~such~~ forged or counterfeit signature knowing it to be forged or counterfeited; 4400
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(C) ~~Who, having~~ Having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which ~~he~~ the person making the delivery receives a certificate or receipt; ~~or~~ 4403
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(D) ~~Who, being~~ Being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state; 4410
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~~shall, upon conviction, be punished as a court martial may direct.~~ 4417

Sec. 5924.133. Any commissioned officer who is convicted of conduct unbecoming an officer and a lady or gentleman shall be 4418
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punished as a court-martial may direct. 4420

Sec. 5924.146. No person may be tried or punished for any 4421
offense provided for in sections 5924.77 to 5924.134, ~~inclusive,~~ 4422
of the Revised Code and of this code, unless it was committed 4423
while ~~he~~ the person was in a military or national guard technician 4424
duty status. 4425

Section 2. That existing sections 124.23, 124.26, 149.01, 4426
317.24, 3319.085, 3333.31, 3737.881, 3781.10, 5321.04, 5902.02, 4427
5903.10, 5903.11, 5911.07, 5923.12, 5924.01, 5924.02, 5924.03, 4428
5924.06, 5924.07, 5924.08, 5924.09, 5924.10, 5924.11, 5924.13, 4429
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5924.109, 5924.111, 5924.113, 5924.115, 5924.128, 5924.131, 4440
5924.132, 5924.133, and 5924.146 and sections 5924.04, 5924.12, 4441
5924.21, 5924.61, 5924.62, 5924.64, 5924.65, 5924.66, 5924.70, 4442
5924.71, 5924.99, 5924.100, 5924.101, 5924.102, 5924.104, 4443
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5924.120, 5924.122, 5924.1231, 5924.124, 5924.125, 5924.126, 4445
5924.129, 5924.130, 5924.145, and 5924.147 of the Revised Code are 4446
hereby repealed. 4447