

CHAPTER 1069

JURISDICTION OF MILITARY COURTS-MARTIAL — CRIMINAL OFFENSES

S.F. 2321

AN ACT relating to jurisdiction over certain offenses committed by members of the state military forces, and establishing certain notification and reporting requirements.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 29B.16, Code 2014, is amended to read as follows:

29B.16 Jurisdiction of courts-martial in general.

1. Each force of the state military forces has court-martial jurisdiction over all persons subject to this code.

2. Courts-martial have primary jurisdiction of military offenses as defined in sections 29B.77 through 29B.116 of this code.

Sec. 2. NEW SECTION. **29B.90A Interference with report of a crime to civilian law enforcement.**

Any person subject to this code shall be punished as a court-martial may direct if the person does any of the following:

1. Interferes with or reprises against any member of the state military forces who has indicated the intent to make or who has made a report to civilian law enforcement of a crime listed in section 29B.116A, subsection 1, where the accused and the victim are subject to this code at the time of the offense.

2. Fails to cooperate with or obstructs a civilian law enforcement investigation based upon a report in subsection 1.

Sec. 3. Section 29B.116, Code 2014, is amended to read as follows:

29B.116 General article.

~~Though Subject to section 29B.116A, though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces and all conduct of a nature to bring discredit upon the state military forces, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance shall not be taken of, and jurisdiction shall not be extended to, the crimes of murder, manslaughter, sexual abuse, robbery, maiming, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.~~

Sec. 4. NEW SECTION. **29B.116A Jurisdiction of offenses by civilian courts and notification of civilian authorities.**

1. *a.* Jurisdiction under this code shall not be extended to the crimes of murder, manslaughter, sexual abuse, robbery, arson, extortion, assault, or burglary, jurisdiction of which is reserved exclusively to civilian courts.

b. The term “civilian criminal offenses” includes all offenses not defined in this code. Primary jurisdiction over civilian criminal offenses shall be with civilian courts, even when committed by a member of the state military forces while subject to this code.

c. Where a civilian criminal offense and a military offense defined in this code may be charged based on the same event, concurrent civilian and military jurisdiction shall exist.

2. *a.* A commander, who is made aware of an allegation that an offense under subsection 1, paragraph “*a*” or “*b*”, has been committed by a member of the state military forces against another member of the state military forces while both are subject to this code, shall notify local civilian law enforcement authorities without delay.

b. (1) Regarding an allegation of sexual abuse, the commander shall provide the person making the allegation with written notice of the person’s right to notify local civilian law enforcement authorities independently, as described in subsection 3. The written notice shall include contact information for an appropriate civilian law enforcement authority.

(2) Regarding an allegation of sexual abuse, the commander's obligation to notify under paragraph "a" shall not apply to an allegation that is a restricted report, as that term is defined in federal military regulations. The commander's obligation to notify under paragraph "a" shall apply to an allegation of sexual abuse that is an unrestricted report, as that term is defined in federal military regulations. The commander's written notification under subparagraph (1) shall inform the person making an allegation of sexual abuse that if the person consents to making an unrestricted report that the person is thereby consenting to the commander notifying an appropriate civilian law enforcement authority so that such an authority may initiate an investigation or collect evidence. The commander's written notification under subparagraph (1) shall also inform the person making the allegation that if the person consents to making an unrestricted report that the person is not required to speak with civilian law enforcement investigators or otherwise participate in an investigation by a civilian law enforcement authority.

3. Members of the state military forces who are victims of offenses described in subsection 1 retain the right to notify local civilian law enforcement authorities independently.

Sec. 5. NEW SECTION. **29B.116B Adjutant general report.**

The adjutant general shall report annually, by January 15, to the governor and to the chairpersons and ranking members of the general assembly's standing committees on veterans affairs on the number of offenses described in section 29B.116A, subsection 1, which have reported to civilian law enforcement authorities in the prior year, if such offenses were committed by a member of the state military forces against another member of the state military forces while both are subject to this code. The report shall provide such numbers by type of offense.

Sec. 6. Section 803.1, subsection 1, Code 2014, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* The offense is committed by a member of the state military forces against another member of the state military forces, both are in a duty status at the time of the offense, whether inside or outside the state, and the offense is one for which civil courts have jurisdiction under section 29B.116A. However, for those offenses subject to both civilian and military jurisdiction, civilian jurisdiction shall not be declined solely on that basis.

Approved April 3, 2014