

29B.14 Commanding officer's nonjudicial punishment.

1. Under regulations as the adjutant general may prescribe limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, punishment shall not be imposed upon any member of the state military forces under this section if the member demands trial by court-martial in lieu of punishment before imposition of the punishment. The adjutant general may adopt rules relating to the suspension and mitigation of punishments authorized under this code. The adjutant general, or an officer of a general rank in command may delegate powers under this section to a principal assistant who is a member of the state military forces according to rules adopted by the adjutant general.

2. Subject to rules of the adjutant general, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose disciplinary punishments for minor offenses without the intervention of a court-martial as follows:

a. Upon officers under the officer's command any one or a combination of the following:

(1) Withholding of privileges for not more than two consecutive weeks.

(2) Restriction to certain specified limits with or without suspension from duty, for not more than two consecutive weeks.

(3) If imposed by a commanding officer of the state military forces of field grade or above, a fine of any amount up to a maximum of the equivalent of ten days' pay or the forfeiture of not more than ten days' pay.

b. Upon other military personnel under the officer's command any one or a combination of the following:

(1) Withholding of privileges for not more than two consecutive weeks.

(2) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks.

(3) Extra duties for not more than fourteen days, which need not be consecutive, and for not more than two hours per day, holidays included.

(4) Reduction to the next inferior pay grade if the current grade from which demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the one imposing the reduction.

(5) A fine of any amount up to a maximum of the equivalent of four days' pay or the forfeiture of not more than four days' pay.

c. If the commanding officer is of field grade or above, any one or a combination of the following:

(1) Any of the punishments stated in paragraph "*b*", subparagraph (1), (2), or (3).

(2) A fine of any amount up to the maximum of the equivalent of ten days' pay or the forfeiture of not more than ten days' pay.

(3) Reduction to the lowest or any intermediate pay grade, if the current grade from which demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the one imposing the reduction, but enlisted members in pay grades above E-4 shall not be reduced more than two pay grades.

d. Maximum allowable punishments of withholding of privileges, restrictions, and extra duties shall not be combined to run consecutively.

3. A person punished under this section who considers the punishment unjust or disproportionate to the offense may appeal to the next superior authority through the proper channel. The authority considering the appeal may refer a case that has been appealed to a staff judge advocate or legal officer for consideration and advice and shall do so before deciding on the appeal when the punishment is restriction, withholding of privileges, extra duties, forfeiture of pay, or reduction from the fourth or higher pay grade. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, the officer's successor in command, or superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges and property affected. In addition the officer or authority may at any time place the offender on probation and suspend a reduction in grade or forfeiture whether or not executed.

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

5. When a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on or after that punishment is imposed and to pay and allowances accrued before that date.

[C54, 58, 62, § 29.62; C66, 71, 73, 75, 77, 79, 81, § 29B.14; 82 Acts, ch 1042, § 5]

89 Acts, ch 82, §24