

29B.28 Detail of trial counsel and defense counsel.

For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel and assistants the authority considers appropriate. A person who has acted as investigating officer, military judge, or court member in a case shall not 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. A person who has acted for the prosecution shall not act later in the same case for the defense, nor shall a person who has acted for the defense act later in the same case for the prosecution.

Trial counsel or defense counsel detailed for a general court-martial must be a person who is a member of the bar of the highest court of the state and certified as competent for the duty by the staff judge advocate.

In the case of a special court-martial:

1. The accused has the right to be represented at the trial by counsel having the qualifications stated in this section unless counsel having such qualifications cannot be provided because of physical conditions or military exigencies. If such counsel cannot be provided, the court may be convened and the trial held, but the convening authority shall append a detailed written statement to the record stating why such counsel was not provided.
2. If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified.
3. If the trial counsel is a member of the bar of the highest court of the state, the defense counsel detailed by the convening authority must also be a member of the bar of the highest court of the state.

[C66, 71, 73, 75, 77, 79, 81, § 29B.28; 82 Acts, ch 1042, § 15]

2002 Acts, ch 1117, §45, 52