

House Study Bill 560 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

A BILL FOR

1 An Act relating to the military division of the department of
2 public defense concerning state military service and the
3 Iowa code of military justice.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29A.8A, Code 2009, is amended to read as
2 follows:

3 **29A.8A State military service.**

4 1. If federal funding and authorization exist for this
5 purpose, the governor may order to state military service the
6 military forces of the Iowa army national guard or Iowa air
7 national guard as the governor may deem appropriate for the
8 purposes of homeland security, homeland defense, or other duty.

9 2. A state employee shall take either a full day's leave in
10 accordance with section 29A.28 or eight hours of compensatory
11 time on a day in which the state employee receives a full day's
12 pay from federal funds for ~~national guard duty~~ state military
13 service.

14 3. When performing state military service, the adjutant
15 general, a deputy adjutant general, or the state quartermaster
16 shall not be considered a state employee, except for purposes
17 of the Iowa public employees' retirement system, state health
18 and dental plans, and other state employee benefits plans.

19 Sec. 2. Section 29B.37, Code 2009, is amended to read as
20 follows:

21 **29B.37 Adjutant general may prescribe rules.**

22 The procedures, including modes of proof, in cases before
23 military courts and other military tribunals shall be
24 prescribed by the adjutant general by rule, but shall not be
25 contrary to or inconsistent with this code. ~~This code shall be~~
26 ~~construed as to effectuate the general purpose of uniformity~~
27 ~~so far as practical with the uniform code of military justice,~~
28 ~~10 U.S.C. ch. 47.~~ All courts and other proceedings shall
29 be conducted under the procedural rules established under 10
30 U.S.C. ch. 47 unless otherwise provided in this code.

31 Sec. 3. Section 29B.47, subsection 3, Code 2009, is amended
32 to read as follows:

33 3. Process issued in court-martial cases to compel
34 witnesses to appear and testify and to compel the production
35 of other evidence shall run to any part of the state United

1 States and shall be executed by civil officers as prescribed by
2 laws of the ~~state~~ United States or the place where the witness
3 or evidence is located.

4 Sec. 4. NEW SECTION. 29B.107A **Wrongful use or possession**
5 **of controlled substances.**

6 1. Any person subject to this code who wrongfully uses,
7 possesses, manufactures, distributes, or introduces into an
8 installation, vessel, vehicle, or aircraft used by or under
9 the control of the armed forces of the United States or of the
10 state military forces, a controlled substance shall be punished
11 as a court-martial may direct.

12 2. For purposes of this section, "*controlled substance*"
13 includes but is not limited to any of the following:

14 a. Opium, heroin, cocaine, amphetamine, lysergic acid
15 diethylamide, methamphetamine, phencyclidine, barbituric
16 acid, and marijuana and any compound or derivative of any such
17 substance.

18 b. Any substance listed on a schedule of controlled
19 substances prescribed by the president of the United States for
20 the purposes of the uniform code of military justice, 10 U.S.C.
21 ch. 47.

22 c. Any substance listed in schedules I through V of section
23 202 of the federal Controlled Substances Act, 21 U.S.C. § 812.

24 Sec. 5. NEW SECTION. 29B.130 **Uniformity of interpretation.**

25 This code shall be construed as to effectuate the general
26 purpose of uniformity, so far as practical, with the uniform
27 code of military justice, 10 U.S.C. ch. 47.

28 EXPLANATION

29 This bill relates to the military division of the department
30 of public defense concerning state military service and the
31 Iowa code of military justice.

32 Code section 29A.8A, concerning state military service, is
33 amended to provide that the adjutant general, a deputy adjutant
34 general, and the state quartermaster shall not be considered
35 state employees while performing state military service except

1 for purposes of the Iowa public employees' retirement system
2 and state employee health, dental, and other benefit plans.

3 Code section 29B.47, concerning process issued under the
4 Iowa code of military justice, is amended to provide that
5 process may run to other states, as well as the United States
6 and its territories and possessions in accordance with the law
7 of the place where the witness or evidence sought is located.

8 New Code section 29B.107A adds an additional punitive
9 article to the Iowa code of military justice relating to
10 wrongful use, possession, distribution, or manufacture of
11 certain controlled substances. The bill defines controlled
12 substances to include opium, heroin, cocaine, amphetamine,
13 lysergic acid diethylamide, methamphetamine, phencyclidine,
14 barbituric acid, and marijuana and any compounds or
15 derivatives, substances specified by the president as
16 controlled substances for purposes of the uniform code of
17 military justice, and substances listed in schedules I through
18 V of section 202 of the federal Controlled Substances Act.

19 The bill also moves language concerning interpreting the
20 Iowa code of military justice consistently with the federal
21 uniform code of military justice from Code section 29B.37 to
22 new Code section 29B.130.