

State of Arkansas  
94th General Assembly  
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As Engrossed: H2/28/23

# A Bill

HOUSE BILL 1425

By: Representative M. Berry

By: Senator B. Johnson

## For An Act To Be Entitled

AN ACT TO UPDATE THE MILITARY CODE OF ARKANSAS; AND  
FOR OTHER PURPOSES.

### Subtitle

TO UPDATE THE MILITARY CODE OF ARKANSAS.

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

SECTION 1. Arkansas Code § 12-64-104(b), concerning the appointment of judge advocates and legal officers, is amended to read as follows:

(b) The Adjutant General may appoint as many assistant state judge advocates as he or she shall deem necessary, which assistant state judge advocates shall be officers of the organized militia and members of the bar of the state, or qualified under subsection (f) of this section.

SECTION 2. Arkansas Code § 12-64-104, concerning the appointment of judge advocates and legal officers, is amended to add additional subsections to read as follows:

(f) Except as provided by subsection (g) of this section, an attorney may serve as a judge advocate in the Arkansas National Guard without regard to his or her licensing state if the attorney:

(1) Is in good standing with the licensing authority admitting him or her to the practice of law before the highest court of a state, territory, commonwealth, or the District of Columbia; and

(2) Meets any of the following requirements:

(A) Is approved through the standard accession process for



Arkansas National Guard judge advocates;

(B) Is accessed through an interstate transfer into the Arkansas National Guard; or

(C) Is a judge advocate provided at the expense of the United States Government or another state, territory, commonwealth, or the District of Columbia.

(g) A judge advocate who is not licensed to practice law in this state may practice military law in this state if he or she is in active duty status under:

(1) Title 10 of the United States Code; or

(2) Title 32 of the United States Code.

(h) A judge advocate who is not licensed to practice law in this state may practice military law in this state if:

(1) He or she is in state active duty status; and

(2) In accordance with the rules established by the Supreme Court for the practice of law and the professional conduct of attorneys at law.

SECTION 3. Arkansas Code § 12-64-410(c), concerning trial and defense counsel, is amended to read as follows:

(c)(1) If a victim of a crime committed subject to this code has a special victims' counsel provided at the expense of an appropriate government agency, the special victims' counsel shall be afforded all of the rights and privileges offered to counsel at similar courts of the United States Army and the United States Air Force.

(2) A judge advocate certified to practice before military courts is fully certified and qualified to serve as a military judge, trial counsel, defense counsel, or special victims' counsel for the courts convened under this code, without regard to the judge advocate's licensing state.

(3) Any counsel furnished at the expense of the United States Government or the state government shall be qualified to serve as a military judge, trial counsel, defense counsel, or special victims' counsel under this section and, if qualified, shall be exempt from any fees or additional requirements.

SECTION 4. Arkansas Code § 12-64-522(a)(1), concerning votes and

rulings, is amended to read as follows:

12-64-522. Votes and rulings.

(a)(1) Voting by members of a general or special court-martial upon question of challenge, or on the findings, ~~and on the sentence~~ shall be by secret written ballot.

SECTION 5. Arkansas Code § 12-64-522, concerning votes and rulings, is amended to add an additional subsection to read as follows:

(d) If an accused is convicted in a general or special court-martial, the:

(1) Military judge shall impose the sentence; and

(2) Sentence imposed under subdivision (d)(1) of this section shall be considered the sentence of the court-martial.

SECTION 6. Arkansas Code § 12-64-524 is amended to read as follows:

12-64-524. Announcement of action.

(a) In all trials, whether before members or judge alone, the court-martial shall announce a finding for each charge and specification that is not dismissed or withdrawn by the prosecution to the parties as soon as the findings are determined.

~~(b) In all trials before members, the court-martial shall announce a single sentence as to confinement, fines or forfeitures, discharge or dismissal, and reprimand and reduction in rank for all charges and specifications for which the accused was found guilty.~~

~~(c) In all trials before a judge alone, the court-martial~~ the military judge shall announce a separate sentence as to confinement, fines or forfeitures, discharge or dismissal, and reprimand and reduction in rank for each charge and specification for which the accused was found guilty.

SECTION 7. Arkansas Code § 12-64-843 is amended to read as follows:

12-64-843. Conduct unbecoming an officer ~~and a gentleman~~.

Any commissioned officer who is convicted of conduct unbecoming to an officer ~~and a gentleman~~ shall be punished as a court-martial may direct.

*/s/M. Berry*

**APPROVED: 3/21/23**