

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980

ARTICLE 5

32.1022 General court-martial; convening by order of governor or state adjutant general.

Sec. 22. A general court-martial may be convened by order of the governor or the state adjutant general.

History: 1980, Act 523, Eff. Mar. 31, 1981.

32.1023 Special court-martial; convening authority.

Sec. 23. Except as otherwise provided in this section, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene a special court-martial. A special court-martial may also be convened by superior competent authority. If the commanding officer is an accuser, the court shall be convened by superior competent authority. A commanding officer shall not convene a special court-martial without the written consent of the adjutant general.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2024, Act 77, Imd. Eff. July 8, 2024.

32.1024 Summary court-martial; convening authority.

Sec. 24. Except as otherwise provided in this section, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of 1 commissioned officer who meets the qualifications of section 16(c). A commanding officer shall not convene a summary court-martial without the written consent of the adjutant general.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2024, Act 77, Imd. Eff. July 8, 2024.

32.1025 Members for courts-martial; selection; eligibility; qualifications.

Sec. 25. (1) Members for all courts-martial shall be selected at random pursuant to regulations issued by the state adjutant general not inconsistent with this section.

(2) A commissioned officer on duty with the state military forces is eligible to serve on all courts-martial for the trial of a person who may lawfully be brought before the court-martial for trial.

(3) A warrant officer on duty with the state military forces is eligible to serve on general and special courts-martial for the trial of a person, other than a commissioned officer, who may lawfully be brought before the court-martial for trial.

(4) An enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before the court-martial for trial, but the enlisted member shall serve as a member of a court only if, before the convening of the court, the accused personally requested in writing that enlisted members serve on the court-martial. After the request, the accused may not be tried by a general or special courts-martial the membership of which does not include enlisted members in a number comprising at least 1/3 of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If the members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why enlisted members could not be obtained.

(5) Unless unavoidable, a person subject to this code shall not be tried by a court-martial which has a member junior to the person in rank or grade. When convening a court-martial, the convening authority shall detail as a member of the court-martial a person who is best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. A person is not eligible to serve as a member of a general or special court-martial if the person is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2005, Act 186, Imd. Eff. Oct. 27, 2005.

32.1026 General or special court-martial; military judge; requirements; powers and duties.

Sec. 26. (1) Subject to this section, a military judge must be detailed to each general or special court-martial.

(2) A military judge must be a commissioned officer who is licensed to practice law in this state and who is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a

military judge by the state staff judge advocate.

(3) A military judge must be detailed by the state staff judge advocate.

(4) The convening authority and any member of the staff of the convening authority shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge detailed under subsection (1) that relates to the military judge's performance of duty as a military judge.

(5) An individual is not eligible to act as military judge in a case if that individual is the accuser, is a witness for the prosecution, or has acted as investigating officer or as a counsel in that same case.

(6) A military judge shall not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, and shall not vote with the members of the court.

(7) A military judge shall rule finally on all matters of law, rule finally on all motions, and except as otherwise provided, decide all other questions raised at the trial of the accused.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2005, Act 186, Imd. Eff. Oct. 27, 2005;—Am. 2024, Act 77, Imd. Eff. July 8, 2024.

32.1027 General and special court-martial; trial counsel and defense counsel; assistants.

Sec. 27. (1) For each general and special court-martial, the convening authority shall request the state staff judge advocate to detail trial counsel and defense counsel, and those assistants as the convening authority considers appropriate. An individual who has acted as investigating officer, military judge, or court member in any 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. An individual who has acted for the prosecution shall not act later in the same case for the defense, nor shall an individual who has acted for the defense act later in the same case for the prosecution.

(2) Military trial counsel or military defense counsel for a general or special courts-martial shall be licensed to practice law in this state and certified as competent to perform those duties by the state staff judge advocate.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2005, Act 186, Imd. Eff. Oct. 27, 2005;—Am. 2024, Act 77, Imd. Eff. July 8, 2024.

32.1028 General or special court-martial; court reporters; interpreters.

Sec. 28. (1) The convening authority of a general or special courts-martial shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before the court-martial.

(2) The convening authority of a military court may detail or employ interpreters who shall interpret for the court-martial.

History: 1980, Act 523, Eff. Mar. 31, 1981.

32.1029 General or special court-martial; members not to be absent or excused after arraignment; exceptions; reduction of membership below specified number; procedure.

Sec. 29. (1) A member of a general or special courts-martial shall not be absent or excused after the accused has been arraigned except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

(2) If a general court-martial is reduced below 8 members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not less than 8 members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court-martial in the presence of the military judge, the accused, and counsel.

(3) If a special court-martial is reduced below 4 members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not less than 4 members. When the new members have been sworn, the trial shall proceed as if no evidence had previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation of that testimony is read to the court-martial in the presence of the accused and counsel.

History: 1980, Act 523, Eff. Mar. 31, 1981;—Am. 2005, Act 186, Imd. Eff. Oct. 27, 2005;—Am. 2024, Act 77, Imd. Eff. July 8, 2024.