

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)

Act 523 of 1980

ARTICLE 6

32.1030 Preferring charges and specifications; signature; oath; disposition; informing accused of charges.

Sec. 30. (1) Any person subject to this code may prefer charges.

(2) A person preferring charges and specifications shall sign the charges under oath before a person authorized by this code to administer oaths and shall state all of the following:

(a) That the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications.

(b) That the charges and specifications are true in fact to the best of the signer's knowledge and belief.

(3) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made of the charges in the interest of justice and discipline, and the person accused shall be informed of the charges against him or her as soon as practicable.

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

32.1030a Appointment of military judge; proceedings; procedures and limitations; referral.

Sec. 30a. (1) A military judge may be appointed to conduct proceedings to review, or otherwise act on, the following matters before referral of charges and specifications to court-martial in accordance with regulations promulgated under this code:

(a) Prereferral investigative subpoenas.

(b) Prereferral warrants or orders for electronic communications.

(c) Prereferral matters referred by an appellate court.

(d) Prereferral matters under section 6a(2).

(2) The regulations promulgated under subsection (1) must include both of the following as considered appropriate by the adjutant general:

(a) Procedures for the review of rulings that may be ordered under this section.

(b) Limitations on the relief that may be ordered under this section.

(3) If a matter in a proceeding under this section becomes a subject at issue with respect to charges that have been referred to a general or special court-martial, the matter must be transferred to the military judge detailed to the court-martial.

History: Add. 2024, Act 77, Imd. Eff. July 8, 2024.

32.1031 Self-incrimination; interrogation of accused or suspect; compelling statement or evidence not material to issue and tending to degrade person; statements obtained from person not to be received in evidence; persons bound by requirements of section; duties of interrogator.

Sec. 31. (1) A person subject to this code shall not compel another person to incriminate himself or herself or to answer any question the answer to which may tend to incriminate the person.

(2) A person subject to this code may not interrogate, or request any statement from, an accused or a person suspected of an offense without first informing the person of the nature of the accusation and advising the person that he or she does not have to make any statement regarding the offense of which the person is accused or suspected, that any statement made by the person may be used as evidence against the person in a trial, military or civil, that the person has a right to consult with a lawyer, that the person has a right to have a lawyer present during questioning, that the person has a right to request a lawyer and that upon request a lawyer will be provided without cost, or, if the person prefers, that the person may retain counsel of the person's choice at the person's own expense.

(3) A person subject to this code shall not compel another person to make a statement or produce evidence before a military court if the statement or evidence is not material to the issue and may tend to degrade the person.

(4) A statement obtained from a person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement shall not be received in evidence against the person in a trial by court-martial.

(5) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.

(6) A person shall not interrogate or request a statement from another person subject to this code, regarding

an offense of which the latter is accused or suspected until the interrogator does all of the following:

- (a) Reads subsections (1) to (4) to the accused or suspect.
- (b) Explains the provisions of subsections (1) to (4) to the person, including all of the following:
 - (i) The nature of the accusation.
 - (ii) That the accused or suspect does not have to make any statement regarding the offense.
 - (iii) That any statement made by the accused or suspect may be used against the person in a trial, military or civil.
- (c) Explains to the accused or suspect that the accused or suspect has the right to consult with a lawyer before any questioning and that the lawyer may be a civilian lawyer of the person's choice retained at the person's own expense or may be a military lawyer appointed to act without cost to the person.
- (d) Explains that the accused or suspect has a right to have a civilian or appointed military lawyer present during the interview.

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

32.1032 Investigation of matters set forth in charge or specification; conduct; formal report; contents; informing accused of rights and other matters; opportunity for cross-examination and for presentation; demand for further investigation.

Sec. 32. (1) A charge or specification must not be referred to a general court-martial for trial until a thorough and impartial investigation of all matters set forth in the charge or specification has been made. The conduct of this investigation is the responsibility of the officer exercising special court-martial jurisdiction over the accused and must include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition that should be made of the case in the interest of justice and discipline. The investigating officer shall submit a formal report to the convening authority, the state staff judge advocate, and the accused. This report must include all of the following:

- (a) A statement of the name, organization, or address of counsel and information as to the presence or absence of counsel throughout the proceedings if counsel has been requested by the accused.
 - (b) A summarized statement of all relevant testimony including the names and units, if applicable, of the individuals giving testimony.
 - (c) A statement indicating all sources of information considered by that officer in reaching conclusions or making recommendations.
 - (d) A statement of the names and units of all witnesses essential to the defense or prosecution of the case.
- (2) Before an investigation initiated under this code, the accused must be informed of the accused's rights under section 31, including the right to counsel, in the manner provided in that section, and, in addition, must be informed of all of the following:
- (a) The offense of which the accused is suspected, accused, or charged.
 - (b) The name of the accuser and the witnesses against the accused that are known by the investigating officer.
 - (c) The fact that charges are about to be investigated.
 - (d) The accused's right to cross-examine witnesses and to present anything by way of statement or otherwise the accused may desire in the accused's own behalf, either in defense, extenuation, or mitigation.

(3) At an investigation, full opportunity must be given to the accused to cross-examine witnesses if the witnesses are available, and to present anything the accused may desire in the accused's own behalf, either in defense or mitigation, and the investigation officer shall examine available witnesses requested by the accused.

(4) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsections (2) and (3), further investigation of that charge is not necessary under this section unless it is demanded by the accused after the accused is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer new evidence in the accused's own behalf.

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

32.1033 Officer exercising special court-martial jurisdiction over accused to forward charges to governor; report.

Sec. 33. If a person is held for trial by a general court-martial, the officer exercising special court-martial jurisdiction over the accused shall, within 8 days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, through military channels to the governor, or if that is not practicable, the officer shall report in writing the reasons for the delay.

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

32.1034 Convening authority to refer charge to state staff judge advocate for consideration and advice before trial; referring charge to general court-martial for trial; formal corrections and changes in charges or specifications.

Sec. 34. (1) Before directing the trial of a charge by a general court-martial, the convening authority shall refer the charge to the state staff judge advocate for consideration and advice. The convening authority shall not refer a charge to a general court-martial for trial unless the convening authority has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

(2) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and the changes in the charges or specifications as are needed to make the charges or specifications conform to the evidence may be made.

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

32.1035 Service of charges upon accused; person not to be brought to trial within specified time period.

Sec. 35. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace, a person, against the person's objection, shall not be brought to trial before a general court-martial within a period of 5 days after the service of the charges upon the person, or before a special court-martial within a period of 3 days after the service of the charges upon the person.

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