

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 401

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Military)

Health and Government Operations

Education, Health, and Environmental Affairs

**Military Department - Powers of the Adjutant General - Summary Courts-
Martial**

This departmental bill authorizes the Adjutant General of the Military Department to adopt rules and regulations for the governance, discipline, and performance of duties of the State militia, consistent with the Uniform Code of Military Justice (UCMJ) and with the federal rules, regulations, and statutes applicable to the Department of Defense, the Army, the Air Force, and the National Guard Bureau of the United States. The bill's provisions replace current law provisions for summary courts-martial and add a mechanism for nonjudicial discipline. The bill updates related sentencing provisions and specifies that a conviction from a summary court-martial may not constitute a conviction for the purpose of any disqualification or disability imposed by law. Adoption and publication of rules and regulations under the bill are exempt from provisions of the Administrative Procedure Act.

Fiscal Summary

State Effect: The bill's changes to procedures for summary courts-martial do not materially affect State finances.

Local Effect: None.

Small Business Effect: The Military Department has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill).

Analysis

Current Law: Under provisions of the Public Safety Article governing the State Militia and the Adjutant General of the Military Department, there are three types of courts-martial: general, special, and summary. This bill addresses only summary courts-martial, as applied to enlisted soldiers and noncommissioned officers. The commanding officer of a garrison, fort, post or other place, regiment or corps, detached battalion, company, or other detachment may appoint for that command or place a summary court-martial.

A summary court-martial must consist of one officer. A summary court officer may try an enlisted individual of the summary court-martial's place or command for a breach of discipline or violation of law governing the place or command, and administer an oath. The proceedings must be informal. The minutes must be the same as prescribed for the minutes for a summary court of the U.S. Army or Air Force.

A summary court-martial may impose the following penalties:

- a fine of up to \$25 for a single offense;
- reduction of noncommissioned officer to the ranks;
- forfeiture of pay and allowances; or
- confinement, in lieu of a fine, not to exceed one day for each dollar of fine authorized.

An enlisted individual convicted of one of the following offenses is subject to a fine not exceeding \$100:

- disobedience of orders;
- disrespect to superior;
- mutiny;
- desertion;
- neglect of duty;
- drunkenness on duty;
- conduct prejudicial to good order and military discipline;
- an act contrary to this title or to orders and regulations that govern the militia;
- without proper excuse, absence from or tardiness in attending a drill, parade, encampment, or other duty ordered by competent authority;
- neglecting to take proper care of or willfully damaging or destroying arms, uniforms, equipment, or military property; or
- fraudulent enlistment.

A sentence of dismissal from the service or dishonorable discharge imposed by a court-martial may not be executed until approved by the Governor.

The Military Department is not now specifically exempt from the Administrative Procedure Act.

Background: The Military Department advises that an updated process for summary courts-martial is vital to commanders to improve military discipline. The department further advises that current law is overly vague, with outdated penalty provisions, and that the disciplinary tool of summary courts-martial cannot currently be used effectively by commanders. According to the department, the only workable current option is separation for a soldier or airman. The department believes that this bill enables commanders to rehabilitate personnel under their command.

Enacted in 1950, UCMJ established a standard set of procedural and substantive criminal laws for all members of the military, including those on active duty, students at military academies, prisoners of war, and, in some cases, retired or reserve personnel. It changed prior military law in several ways, especially by providing substantial procedural safeguards for the accused, such as the right to counsel, the right to remain silent, the right to be informed of the nature of an accusation, and the right to be advised of these rights.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Military Department, <http://legal-dictionary.thefreedictionary.com>, Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2013
mlm/lgc Revised - House Third Reader - March 19, 2013

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Summary Courts - Martial

BILL NUMBER: HB 401

PREPARED BY: Military

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.