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TITLE 51
MILITARY AFFAIRS

Part
I. Preliminary Provisions
II. Pennsylvania National Guard, Pennsylvania Guard and Militia
III. Interstate Relations
IV. Military Justice
V. Employment Preferences and Pensions
VI. Miscellaneous Provisions

Enactment. Unless otherwise noted, the provisions of Title 51 were added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Special Provisions in Appendix. See section 401 of Act 5 of 2017 in the appendix to this title for special provisions relating to applicability.

PART I
PRELIMINARY PROVISIONS

Chapter
1. General Provisions

Enactment. Part I was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

CHAPTER 1

GENERAL PROVISIONS

Sec.
101. Short title of title.
102. Definitions.
103. Conformity with Federal legislation.
104. Character of discharge.

Enactment. Chapter 1 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 101. Short title of title.

This title shall be known and may be cited as the "Military and Veterans Code."

(Apr. 29, 1998, P.L.296, No.49, eff. imd.)

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Armory." Land, buildings and fixtures used for housing elements of the Pennsylvania military forces.

"Department." The Department of Military and Veterans Affairs of the Commonwealth.

"National Defense Act." The act of Congress, entitled "An act for making further and more effectual provisions for the National Defense and for other purposes," approved June 3, 1916, its amendments and supplements.

"National Guard of the United States." The Army National Guard of the United States and the Air National Guard of the United States.

"Officer." Commissioned or warrant officer.

"Order." General or special order, oral or written, whether issued pursuant to State or Federal authority.

"Pennsylvania Guard." Those organized units of the Pennsylvania military forces which are not Federally recognized or which serve under the authority of the Governor when the Pennsylvania National Guard, in whole or in part, is on extended Federal active duty.

"Pennsylvania military forces." The land, air and sea military units organized for the internal security of this Commonwealth.

"Pennsylvania National Guard." The Pennsylvania Army National Guard and the Pennsylvania Air National Guard.

(Dec. 21, 1995, P.L.737, No.80, eff. imd.)

1995 Amendment. Act 80 amended the def. of "department."

§ 103. Conformity with Federal legislation.

It is the intent of this title that it shall be in conformity with all acts and regulations of the United States affecting the same subjects, and all provisions of this title shall be construed to effectuate this purpose.

§ 104. Character of discharge.

(a) General rule.--Whenever a particular character of discharge is a prerequisite to eligibility for receiving a benefit provided for in this title, an individual must have received a discharge from service under conditions other than dishonorable. Recipients of a discharge under conditions other than dishonorable include the following:

(1) A recipient of an honorable discharge.

(2) A recipient of a general, under honorable conditions, discharge.

(3) A recipient of a discharge under other than honorable conditions for which the recipient has been determined to be eligible for benefits afforded by the United States Department of Veterans Affairs.

(4) A recipient of a discharge for which benefits are payable under 38 CFR 3.12 (relating to character of discharge).

(b) Exclusions.--A discharge under conditions other than dishonorable does not include:

(1) A dishonorable, bad conduct or undesirable discharge.

(2) A discharge or release because of one of the offenses specified in 38 CFR 3.12(d).

(c) Uncharacterized separations.--A recipient of an uncharacterized discharge or separation shall be evaluated based upon 38 CFR 3.12(k).

(Dec. 17, 2015, P.L.458, No.82, eff. 60 days)

2015 Amendment. Act 82 added section 104.

PART II
PENNSYLVANIA NATIONAL GUARD, PENNSYLVANIA GUARD AND MILITIA

Subpart

A. Organization
B. Officers and Enlisted Personnel
C. Pay, Allowances, Benefits and Medals
D. Rights and Immunities

Enactment. Part II was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

SUBPART A
ORGANIZATION

Chapter

3. The Militia
5. The Governor as Commander-in-Chief
7. Department of Military Affairs
9. The Adjutant General
11. Pennsylvania National Guard
13. Pennsylvania Guard
15. State Armory Board
17. State Veterans' Commission and Deputy Adjutant General for Veterans' Affairs
19. Pennsylvania Veterans' Memorial Commission

CHAPTER 3
THE MILITIA

Sec.

301. Formation.

Enactment. Chapter 3 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 301. Formation.

(a) Pennsylvania militia.--The militia of this Commonwealth shall consist of:

(1) all able-bodied citizens of the United States and all other able-bodied persons who have declared their intention to become citizens of the United States, residing within this Commonwealth, who are at least 17 years six months of age and, except as hereinafter provided, not more than 55 years of age; and

(2) such other persons as may, upon their own application, be enlisted or commissioned therein.

(b) Pennsylvania naval militia.--The naval militia of this Commonwealth, when organized pursuant to rules and regulations promulgated by the Governor, shall consist of those persons as may, upon their own application, be enlisted or commissioned therein.

CHAPTER 5
THE GOVERNOR AS COMMANDER-IN-CHIEF

Sec.

501. Powers of Governor.
502. Acceptance of Federal allotment for Pennsylvania National Guard.
503. Training and Federal property of Pennsylvania National Guard.
504. Permanent location of Pennsylvania National Guard units.
505. Change in organization of Pennsylvania National Guard.
506. Organization of Pennsylvania Guard for emergency.
507. Draft from militia for emergency.
508. Active duty for emergency.
509. Coordination with adjacent states.
510. Promulgation of regulations and rules.
511. Issuing flags, standards and guidons.
512. Display of POW/MIA flag.

Enactment. Chapter 5 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 501. Powers of Governor.

The Governor of this Commonwealth as Commander-in-Chief shall have the powers enumerated hereafter in this title over the Pennsylvania military forces which includes the Pennsylvania National Guard when not absent from this Commonwealth on the call or order of the United States and the Pennsylvania Guard when formed, organized and equipped under order from the Governor in conformity with this title.

§ 502. Acceptance of Federal allotment for Pennsylvania National Guard.

The Governor shall accept for the Commonwealth allotments of military personnel and equipment and their apportionment to the various arms and services proposed by the Department of Defense for the Pennsylvania National Guard as he may, in his discretion, deem proper for the Commonwealth to accept.

§ 503. Training and Federal property of Pennsylvania National Guard.

The Governor shall assume the obligation of carrying out the training requirement set forth under the applicable Federal statutes and regulations for the Pennsylvania National Guard. This training function is hereby delegated and becomes the responsibility of the normal channels of command in the Pennsylvania National Guard. The Governor shall furnish suitable shelter for personnel and suitable storage facilities for

Federal property, issued for use of the Pennsylvania National Guard.

§ 504. Permanent location of Pennsylvania National Guard units.

The Governor shall establish the permanent location, within the boundaries of this Commonwealth, of any assigned, authorized organizations or units of the Pennsylvania National Guard allotted to this Commonwealth by the Department of Defense.

§ 505. Change in organization of Pennsylvania National Guard.

The Governor shall organize or reorganize any organization or unit of the Pennsylvania National Guard so as to conform, so far as practicable, to the structure of the armed forces of the United States.

§ 506. Organization of Pennsylvania Guard for emergency.

Whenever the Pennsylvania National Guard, or any part thereof, shall be called or ordered into the service of the United States, the Governor may organize units of the Pennsylvania Guard for the internal security of this Commonwealth. The Governor shall comply with the laws of the United States for the organization, maintenance and functioning of this force. The Governor is further empowered to organize at any time a nucleus of Pennsylvania Guard personnel for the purpose of planning.

§ 507. Draft from militia for emergency.

The Governor shall have the power to order out for actual service with the Pennsylvania Guard by draft as many persons from the militia as necessity demands during a war or other emergency. The Governor is hereby authorized to form, adopt and prescribe such rules and regulations, and appoint such officers and civilian boards and fix their compensation, for the purpose of drafting the militia, when such process may be required, as deemed best and most expedient. Any such rules or regulations shall not conflict with any Federal Selective Service Act or National Draft Act in effect at the time.

Cross References. Section 507 is referred to in section 5102 of this title.

§ 508. Active duty for emergency.

(a) State duty.--The Governor may place the Pennsylvania National Guard, or any part thereof, or when unavailable due to call or order into the service of the United States, the Pennsylvania Guard, or any part thereof, on active duty when an emergency in this Commonwealth occurs or is threatened, or when tumult, riot or disaster shall exist or is imminent.

(b) Emergency duty under compact.--The Governor may place the Pennsylvania National Guard or any part thereof on State active duty or, when appropriate, federally funded duty under 32 U.S.C. (relating to National Guard) when the Governor of another state has declared an emergency and has requested the assistance of the Pennsylvania National Guard under the provisions of Chapter 45 (relating to interstate compact) or 35 Pa.C.S. Ch. 76 (relating to emergency management assistance compact).

(Apr. 12, 2006, P.L.75, No.24, eff. imd.)

Cross References. Section 508 is referred to in sections 3105, 3206, 4102, 5102 of this title; sections 501, 2801, 6308.1 of Title 18 (Crimes and Offenses); section 5802 of Title 35 (Health and Safety).

§ 509. Coordination with adjacent states.

The Governor shall confer with the Governors or proper authorities of adjacent states for the purpose of coordinating and providing for the mutual defense and the internal security

and for the exchange of authority to employ the Pennsylvania military forces in other states, and the employment of their armed forces within the boundaries of this Commonwealth. This power may be delegated to the Adjutant General.

§ 510. Promulgation of regulations and rules.

The Governor shall promulgate such rules and regulations as he may deem expedient for the government of the Pennsylvania military forces. The regulations shall conform to this title and other laws of this Commonwealth applicable to said forces and, as nearly as practicable, to those governing similar Federal armed military forces. They shall have the same force and effect as the provisions of this title and other laws affecting these forces.

§ 511. Issuing flags, standards and guidons.

The Governor as Commander-in-Chief is hereby authorized to procure and issue from time to time to the Pennsylvania National Guard and Pennsylvania Guard such flags, standards and guidons as may be necessary, in conformance with applicable Federal and State statutes and regulations.

§ 512. Display of POW/MIA flag.

The POW/MIA flag may be displayed at the western entrance to the Fort Pitt Tunnel in Allegheny County.

(Dec. 4, 1992, P.L.771, No.119, eff. imd.)

1992 Amendment. Act 119 added section 512, retroactive to June 30, 1992.

CHAPTER 7
DEPARTMENT OF MILITARY AFFAIRS

Sec.

701. Overall powers of department.
702. Duties of department.
703. Administration, supply and supervision of military forces.
704. Advisory councils for veterans' homes.
705. Burial details for veterans.
706. Cooperative agreements.
707. Training areas.
708. Fort Indiantown Gap.
709. Operation of State-owned vehicles.
710. Pennsylvania Veterans' Monuments and Memorial Trust Fund.
711. Installation of police officers for Fort Indiantown Gap and other designated Commonwealth military installations and facilities.
712. Veterans registry.
713. Civil Air Patrol.

Enactment. Chapter 7 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Chapter Heading. The Department of Military Affairs is now the Department of Military and Veterans Affairs.

§ 701. Overall powers of department.

(a) Powers and duties.--The department shall continue to exercise the powers and perform the duties by law vested in and imposed upon the Adjutant General and the department.

(b) Designation.--The Department of Military Affairs is designated as the Department of Military and Veterans Affairs. Contracts, deeds and official actions by the department shall not be affected by the use of the designation by the department as the Department of Military Affairs. The department may continue to use the name Department of Military Affairs on

stationery or any official documents until existing supplies are exhausted. The department may substitute the title Department of Military and Veterans Affairs for the Department of Military Affairs on its documents and materials on such schedule as it deems appropriate.
(Mar. 21, 1996, P.L.39, No.12, eff. imd.)

1996 Amendment. Section 6 of Act 12 provided that the amendment of section 701 shall be retroactive to December 21, 1995. See sections 3 and 4 of Act 12 in the appendix to this title for special provisions relating to use of existing forms, stationery, etc., and continuation of current rules and regulations.

§ 702. Duties of department.

The department shall have the power and its duty shall be:

(1) To distribute all orders from the Governor as Commander-in-Chief and perform such other duties as the Governor as Commander-in-Chief shall direct.

(2) To perform such duties and employ the power delegated to the department and the Adjutant General by the laws of the United States and the rules and regulations promulgated thereunder.

(3) To be an office of permanent record for all personnel papers, documents and forms pertaining to the Pennsylvania National Guard except where the laws of the United States require certain papers, documents or forms to be kept permanently in the National Guard Bureau or other department or section of the Department of the Army, or Department of the Air Force, as the case may be; to be an office of permanent record for personnel papers, documents and forms pertaining to the Pennsylvania Guard.

(4) To procure from the proper agency of the Department of Defense all authorized equipment, to ensure that such equipment is issued to the Pennsylvania National Guard and to keep all books and records, to account for said property and make those returns and reports concerning it as required by law.

(5) To keep in its custody all books and accounts of military property of the Commonwealth issued to Pennsylvania military forces and to safely and properly store such property when not issued.

(6) To pay the troops and make all other disbursements by requisition as otherwise provided by law.

(7) To supply to all officers, organizations and units, publications of laws, regulations and rules prescribed for use of Pennsylvania military forces.

(8) With the approval of the Governor as Commander-in-Chief, to sell or exchange, from time to time, such military stores belonging to the Commonwealth as are found to be unserviceable or in state of decay, or which it may be deemed for the best interest of the Commonwealth to sell or exchange, but if the department is unable to obtain a bid for the property, it may be demolished or destroyed. The destruction of the property shall be witnessed by three disinterested officers of the Pennsylvania National Guard or, when organized, Pennsylvania Guard, and their certificate shall constitute proper authority to issue a voucher for marking off the property. All moneys received for stores so sold shall be paid into the State Treasury through the Department of Revenue.

(9) To audit and adjust all claims incident to the organization, training, discipline, maintenance and service

of the Pennsylvania National Guard and Pennsylvania Guard, other than fixed allowances, and to pay such claims when audited and adjusted, but all claims paid thereunder shall be subject to audit by the Department of the Auditor General.

(10) To appoint a board of not less than three commissioned officers of the Pennsylvania National Guard for the purpose of investigating claims for damages based on injuries to persons, or damages to property, arising out of accident or negligence, and incident to the organization, training, discipline, maintenance and service of the Pennsylvania National Guard and, upon the recommendation of the board so appointed, to adjust and pay such claims for damages. Each claim shall be in an amount not exceeding $2,500. All claims paid hereunder shall be subject to audit by the Department of the Auditor General. No claim shall be paid under the provisions of this paragraph when such claim has arisen from the operation of Commonwealth owned or Federally owned automobiles, when operated by Commonwealth officers or employees or officers and enlisted personnel of the Pennsylvania National Guard.

(11) To investigate the circumstances and to determine the amount of relief or pension payable as a result of the death or disability of a member of the Pennsylvania National Guard; to establish rules governing the filing of claims for pension or relief and to grant such pension or relief, under the laws of this Commonwealth concerning members of the Pennsylvania National Guard.

(12) To investigate the circumstances and adjudicate in accordance with Title 2 (relating to administrative law and procedure) complaints of violations of Chapters 41 (relating to rights and immunities) and 73 (relating to military leave of absence), including complaints of employment discrimination against and violation of reemployment rights of members of the National Guard and other reserve components of the armed forces of the United States. The authority granted in this paragraph shall not extend to those circumstances that the Federal Government has jurisdiction to investigate.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.)

1990 Amendment. Act 174 added par. (12), retroactive to August 1, 1990.

§ 703. Administration, supply and supervision of military forces.

The department shall be specifically responsible for the administration and supply of the Pennsylvania military forces and shall have general supervisory function of all matters pertaining thereto. The department shall make periodic reports, as required by law or requested by the Governor or the Department of Defense, concerning the condition and state of the readiness of the Pennsylvania military forces.

§ 704. Advisory councils for veterans' homes.

(a) Establishment of advisory council.--There is hereby established an advisory council for each veterans' home operated by the Commonwealth. Each advisory council shall consist of 15 members and the Adjutant General, who shall serve ex officio. Twelve of the members shall be appointed by the Governor from a list of nominations submitted to the Adjutant General by the Pennsylvania War Veterans' Council. The Speaker of the House of Representatives and the President pro tempore of the Senate shall each appoint one member from their respective bodies to serve on each council. The remaining member on the advisory

council shall be selected by the residents of the veterans' homes.

(b) Term of office and officers.--Each member of the councils appointed from the General Assembly shall serve for the duration of that General Assembly. The eight members appointed by the Governor shall serve a term of three years, provided that the initial eight members selected by the Governor shall serve as follows: three members for one year, three members for two years and two members for three years as designated by the Governor. Each council shall organize as soon as possible and shall annually elect a president, vice president and secretary.

(c) Removal for cause.--The members appointed by the Governor may be removed by the Governor for cause.

(d) Quorum and time of meetings.--Six members of a council shall constitute a quorum for the purpose of conducting the business of the council. Each advisory council shall meet at least quarterly and at other times at the call of the president.

(e) Expenses.--Members of each advisory council shall receive no compensation for their services but shall receive reimbursement for their necessary and proper expenses for attendance at meetings.

(f) Power and duty of advisory councils.--Each veterans' home advisory council shall advise the Adjutant General as to the management, operation and the adequacy of facilities and services at their respective homes.

(Nov. 26, 1978, P.L.1207, No.283, eff. imd.; Oct. 16, 1998, P.L.780, No.96, eff. 60 days)

1998 Amendment. Act 96 amended subsec. (a).

1978 Amendment. Act 283 added section 704.

§ 705. Burial details for veterans.

(a) Authority.--The department shall have the power to arrange for burial details for veteran soldiers who are to be interred at any of the following national cemeteries:

(1) Indiantown Gap National Cemetery.

(2) National Cemetery of the Alleghenies.

(3) Washington Crossing National Cemetery.

(b) Contracts.--The department may enter into contracts with a Statewide nonprofit fraternal society that represents various veterans' groups for the purpose of providing the burial details authorized by this section. In any such contract the department shall pay an amount not exceeding $150 for each day that the burial detail is provided, and no other expenses shall be paid by the department under the contract.

(c) Terms.--Any burial detail contract entered into under this section shall include the following terms:

(1) A minimum of three veterans shall participate in the burial detail.

(2) The veterans shall be similarly uniformed and equipped.

(3) A bugler shall perform taps or a recording of taps may be played over the tape recording system of the cemetery.

(4) The party under the contract shall indemnify and hold harmless the department and the Commonwealth from any claims arising out of the performance of the burial details.

(d) Insurance.--Any veterans organization, the members of which perform a burial detail pursuant to this section, shall provide liability insurance for the burial details in such amount as prescribed by the department.

(e) Regulations.--The department shall promulgate the rules and regulations necessary to carry out this section.

(May 7, 1998, P.L.355, No.56, eff. July 1, 1998; Sept. 25, 2008, P.L.1068, No.85, eff. imd.; July 7, 2011, P.L.217, No.38, eff. 60 days)

2011 Amendment. Act 38 amended subsec. (a).
1998 Amendment. Act 56 added section 705.

§ 706. Cooperative agreements.

The department may enter into cooperative agreements with the Federal Government to perform certain military or training functions. A cooperative agreement shall contain any appendixes and supplements necessary to allow for the performance of those functions and reimbursement by the Federal Government.
(May 7, 1998, P.L.355, No.56, eff. July 1, 1998)

1998 Amendment. Act 56 added section 706.

§ 707. Training areas.

(a) Acquisition.--Upon the request of the Adjutant General and with the approval of the Governor, the Secretary of General Services is authorized to purchase, lease or obtain the right to use any real estate or building necessary for military training or preparedness of the Pennsylvania National Guard.

(b) Primary training site.--Fort Indiantown Gap shall be the primary training site for the Pennsylvania National Guard.

(c) Alternate training sites.--All State armories, real estate and buildings purchased, leased or utilized for stationing, quartering, training or deploying members of the Pennsylvania National Guard are alternate training areas for use by the Pennsylvania National Guard.

(d) Short-term uses of real property.--The Adjutant General is authorized to enter into agreements for the short-term use of real property on behalf of the Commonwealth for the purpose of obtaining areas for military training or emergency operations. For the purpose of this section, short-term use shall not exceed 30 days.
(May 7, 1998, P.L.355, No.56, eff. July 1, 1998)

1998 Amendment. Act 56 added section 707.

§ 708. Fort Indiantown Gap.

(a) Operation.--The Adjutant General is authorized to promulgate rules, regulations and policies for the continuing operation of Fort Indiantown Gap.

(b) Lease of installation.--The Adjutant General is authorized to enter into agreements with the Federal Government and state governments for the purpose of permitting soldiers under their command to use the real estate and equipment at Fort Indiantown Gap for military training purposes.

(c) Real estate.--Upon the request of the Adjutant General and with the approval of the Governor, the Secretary of General Services is authorized to purchase lands adjacent to Fort Indiantown Gap and to accept on behalf of the department and the Commonwealth any improvements or appurtenances to the lands comprising the installation.

(d) Morale, recreation and welfare.--The Adjutant General is authorized to operate facilities and organize activities and programs at Fort Indiantown Gap for the purpose of improving the morale, welfare and quality of life of service members, military dependents and veterans. The Adjutant General is also authorized to enter into concession agreements with private organizations for the continued operation of a canteen, exchange, commissary, restaurant or other enterprise which will improve the morale or welfare of active, retired or reserve members. These operations, facilities, activities and programs

must be financially self-sustaining, and any income, including fees and charges, derived from the concession agreements and the operation of the facilities, activities and programs shall be deposited by the Adjutant General with a bank or trust company. Moneys in the account may only be used for the continued operation of the facilities, activities or programs at Fort Indiantown Gap. Any Federal funds specifically designated to assist the Adjutant General in implementing this subsection are hereby appropriated to the department for these purposes. No General Fund moneys or other State funds shall be used for the purposes authorized under this subsection. An audit of all accounts under this subsection must be conducted annually on the State fiscal year basis, and the department shall provide a copy of the audit to the Secretary of the Budget.

(e) Offense.--A person who violates a rule or regulation promulgated under this section and designated by the Adjutant General as being for the protection of persons or property at Fort Indiantown Gap commits a summary offense.

(May 7, 1998, P.L.355, No.56, eff. July 1, 1998; Oct. 27, 2010, P.L.872, No.89, eff. 60 days)

2010 Amendment. Act 89 added subsec. (e).

1998 Amendment. Act 56 added section 708.

§ 709. Operation of State-owned vehicles.

The department shall have the authority to order members of the Pennsylvania National Guard to operate State-owned vehicles for the purpose of providing security to military facilities and other facilities within this Commonwealth.

(Dec. 9, 2002, P.L.1649, No.210, eff. imd.)

2002 Amendment. Act 210 added section 709.

§ 710. Pennsylvania Veterans' Monuments and Memorial Trust Fund.

(a) Establishment and administration.--There is established a separate fund in the State Treasury to be known as the Pennsylvania Veterans' Monuments and Memorial Trust Fund. The fund shall be administered by the department, and all moneys in the fund are appropriated to the department on a continuing basis for the purposes provided for under subsection (b). The State Veterans' Commission shall assist the department in accordance with section 1704(1) (relating to specific powers and duties).

(b) Purpose.--The moneys in the fund shall be used for the promotion, administration, operation, maintenance and completion of the monuments and memorials dedicated to Pennsylvania veterans and military units and other costs incidental thereto as approved by the department.

(c) Contributions and solicitation of funds.--

(1) The department is authorized:

(i) To accept, on behalf of the Commonwealth, gifts, donations, legacies and usages of money from individuals, organizations, public or private corporations and other similar entities.

(ii) To solicit and raise moneys from public and private sources.

(2) All money received or raised under this subsection shall be paid into the State Treasury and credited to the fund.

(3) The department may use up to 2% of the available funds as of October 31 of each calendar year to administer the fund in accordance with this section.

(d) Operation and maintenance.--Money must be granted for the operation and maintenance of monuments as designated by the department in consultation with the State Veterans' Commission. At a minimum, the following monuments will receive funding, as needed, for operation and maintenance:

(1) The Pennsylvania Veterans' Memorial on the grounds of the Indiantown Gap National Cemetery.

(2) American battle monuments located overseas officially owned or recognized by the Commonwealth.

(3) Pennsylvania unit monuments and markers within the Gettysburg National Military Park.

(4) Other Pennsylvania military memorials and monuments as designated or recognized by the department.

(June 30, 2003, P.L.16, No.8, eff. June 30, 2005; June 28, 2018, P.L.432, No.64, eff. 60 days)

§ 711. Installation of police officers for Fort Indiantown Gap and other designated Commonwealth military installations and facilities.

(a) Appointment.--The Adjutant General may issue commissions to Commonwealth employees of the Department of Military and Veterans Affairs to act as installation police officers at Fort Indiantown Gap and other Commonwealth military installations and facilities designated by the Adjutant General.

(b) Training.--Any employee commissioned under this section shall, prior to exercising the powers and duties described in this section, have successfully completed a course of training approved under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training). Installation police will, during the course of their employment, undertake and complete such periodic training as is required under 53 Pa.C.S. Ch. 21 Subch. D.

(c) Powers and duties.--Subject to such administrative limitations or restrictions as the Adjutant General may prescribe, installation police employed under this section shall have the power and duty to:

(1) enforce good order on the grounds and in the buildings of Fort Indiantown Gap or other designated military installation or facility;

(2) protect the grounds and buildings of Fort Indiantown Gap or other designated military installation or facility;

(3) exclude disorderly persons from the grounds and buildings of Fort Indiantown Gap or other designated military installation or facility;

(4) adopt whatever means necessary for the performance of their duties;

(5) exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police officers of municipalities within this Commonwealth, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89. Subch. D (relating to municipal police jurisdiction);

(6) prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for offenses committed on the grounds and in the buildings at Fort Indiantown Gap or other designated military installation or facility and prefer charges against offenders under the laws and procedures of this Commonwealth. For the purposes of applying the provisions of 42 Pa.C.S. Ch. 89 Subch. D, the grounds and within 500 yards of the boundary of Fort Indiantown Gap or other designated military installation or facility shall constitute the primary jurisdiction of the installation police;

(7) order off the grounds and out of the buildings of Fort Indiantown Gap or other designated military installation or facility all vagrants, loafers, trespassers and persons under the influence of liquor and, if necessary, remove them by force and, in case of resistance, arrest such offender in accordance with the laws and procedures of this Commonwealth; and

(8) arrest any person who damages, mutilates or destroys the trees, plants, shrubbery, turf, grass plots, benches, buildings and structures or commits any other offense on the grounds and in the buildings of Fort Indiantown Gap or other designated military installation or facility and prefer charges against such offender under the laws and procedures of this Commonwealth.

(d) Municipal agreements.--The Adjutant General and municipalities where Fort Indiantown Gap and other designated military installations or facilities are located are authorized to enter into agreements for the concurrent exercise of those powers and duties conferred pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S. § 8953 (relating to Statewide municipal police jurisdiction). When so acting, the installation police shall have the same powers and immunities granted to police officers in 42 Pa.C.S. Ch. 89 Subch. D.

(e) Status.--When acting within the scope of the authority of this section, installation police are at all times employees of the Commonwealth and shall be entitled to all of the rights and benefits accruing therefrom. Installation police commissioned under this section are "peace officers" for the purposes of 18 Pa.C.S. Ch. 5 (relating to general principles of justification). This section does not change the status of installation police officers for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or cause installation police officers to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

(Oct. 27, 2010, P.L.872, No.89, eff. 60 days)

2010 Amendment. Act 89 added section 711.

Cross References. Section 711 is referred to in section 5102 of Title 71 (State Government).

§ 712. Veterans registry.

(a) Establishment of veterans registry.--The department shall establish a registry of veterans residing in this Commonwealth in order to provide information on Federal, State and local government benefits, programs and services available to veterans and to link veterans with resources that can provide assistance. Upon registration, if permission is granted by the registrant, the registrant's information shall be shared with county directors of veterans affairs and other State agencies.

(b) Coordination with State agencies.--The department shall coordinate with other State agencies that have contact with veterans to establish a paper and an online registry form to enable State agencies to assist the department in registering veterans who wish to be included in the registry.

(c) Duties of department.--The department shall provide access to a paper and an online registry form which contain a statement indicating the purpose for the registry. The forms shall be developed to obtain the following information relating to the veteran:

(1) Personal information, including title, first, middle and last name.
(2) Age, gender, address and county of residence.
(3) Ten-digit phone number and e-mail address.
(4) Declaration of military service.
(5) Benefit and program information requests for various benefits and programs for which veterans may be eligible.
(6) A signed statement, or, for online applicants, a box that is checked, indicating that the veteran grants permission for the department to store and share the veteran's information with the county director of veterans affairs for the county indicated and with other State agencies to ensure that the Commonwealth provides the veteran assistance in receiving earned benefits.
(7) The State agency which assisted the veteran.

(d) Duties of State agencies.--State agencies under subsection (b) shall:

(1) Utilize the paper or online registry form to develop a mechanism to identify veterans the agency serves for the purpose of expanding the registry.
(2) For each veteran who wishes to be included in the registry, provide assistance in filling out the paper or online registry form for the department to add the veteran to the registry.
(3) Submit a registrant's paper registry form to the department within 30 days from the date the veteran opts into the registry.

(e) Use of information.--Information collected under this section may not be sold or used for commercial purposes or used for purposes not specified under this section. Information collected under this section for the registry shall be exempt from being disclosed under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(f) Report.--By January 1, 2018, and each January 1 thereafter, the department shall submit to the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives a report on the registry which shall include:

(1) The total number of veterans registered with the department annually.
(2) The number of registrants received by each State agency.
(3) The number of veterans who choose not to be included in the registry annually from each State agency.
(4) Outreach expenses incurred by the department.

(g) Guidelines.--The Adjutant General may adopt and promulgate guidelines necessary to carry out the provisions of this section.

(Dec. 22, 2017, P.L.1224, No.69, eff. 60 days)

2017 Amendment. Act 69 added section 712.

§ 713. Civil Air Patrol.

(a) Liaison.--The department shall be a liaison for the Civil Air Patrol and shall, notwithstanding any law, provide administrative support in accordance with this section and within the limits of authorized appropriations.

(b) Supervision.--The department shall:

(1) Receive, grant and supervise the expenditure of State funds appropriated by the General Assembly or secured

by the Commonwealth for the use and benefit of the Civil Air Patrol within this Commonwealth.

(2) Supervise the maintenance and use of Commonwealth facilities used by the Civil Air Patrol.

(3) Receive, from the Commonwealth or the Commonwealth's instrumentalities, requests for approval for assistance by the Civil Air Patrol in natural or man-made disasters or emergency situations. A requested and approved mission must be approved or denied in accordance with Federal procedures and in consultation with the Adjutant General or the Adjutant General's designee and the Pennsylvania Emergency Management Agency.

(c) Construction.--Nothing in this section may be construed to limit, diminish or impair an authority, right or agreement validly established and existing on the effective date of this section.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Assistance." The term shall include, but is not limited to, the following missions:

(1) Search and rescue.
(2) Disaster relief support.
(3) Homeland security.
(4) Emergency transport services.
(5) Communications support.

(July 2, 2019, P.L.384, No.60, eff. 60 days)

2019 Amendment. Act 60 added section 713.

CHAPTER 9
THE ADJUTANT GENERAL

Sec.

901. Appointment of Adjutant General, deputies and assistants.
902. General powers and duties of Adjutant General.
903. Providing subsistence, supplies, equipment and expenses.
904. Payment of emergency expenses.
905. Approving appointment of Federal personnel.
906. Delegating responsibility for requisitioning Federal supplies.
907. Augmenting department headquarters staff.
908. Expenditures in connection with distinguished guests.

Enactment. Chapter 9 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 901. Appointment of Adjutant General, deputies and assistants.

(a) Appointment.--The Governor shall appoint the Adjutant General with the advice and consent of the Senate. The Adjutant General may appoint a Deputy Adjutant General for Army and a Deputy Adjutant General for Air, and such other Deputy Adjutants General and Assistant Adjutants General as in his discretion are needed for the efficient functioning of the department. The positions of Assistant Adjutant General, Army, and Assistant Adjutant General, Air, in the grades of brigadier general or major general, shall be authorized. Deputy Adjutants General and such additional Assistant Adjutants General as may be required may also have at least the rank of brigadier general

in the Pennsylvania National Guard or Pennsylvania Guard after appointment.

(b) Qualifications.--No Adjutant General, Deputy Adjutant General or Assistant Adjutant General shall be appointed who shall not have served at least ten years as a commissioned officer in the Pennsylvania National Guard, or any of the armed forces of the United States or their reserve components; the aforesaid service may be cumulative.

(Dec. 4, 1996, P.L.849, No.139, eff. imd.)

1996 Amendment. Act 139 amended subsec. (a). Section 2 of Act 139 provided that Act 139 shall apply to all pay periods beginning after the effective date of Act 139.

§ 902. General powers and duties of Adjutant General.

The Adjutant General as head of the department is responsible to the Commonwealth and to the Governor for the organization and functioning of said department, and the performance and carrying out of all the duties, powers and responsibilities given or delegated. In addition he is hereby authorized and directed to:

(1) Maintain an office through which correspondence on military affairs between the Commonwealth and the Federal Government will be conducted, including that pertaining to funds and property issued by the Federal Government for organization and training of the Pennsylvania military forces.

(2) Maintain all military records until transferred to the Pennsylvania archives or, where so directed, to the proper Federal department.

(3) Maintain historical outlines and permanent historical records of organizations of the Pennsylvania military forces.

(4) Maintain armories, arsenals, military reservations, air bases and all property and equipment intended for the use and training of the Pennsylvania military forces.

(5) Obtain and issue medals in accordance with regulations promulgated under this title.

(6) Prepare all citations, when required, and make arrangements for the proper presentation of the decoration, medal or award.

(7) Convene boards of officers to consider and make recommendations upon such matters as may be referred to them.

(8) Maintain a list of active and retired members of the Pennsylvania National Guard with name, rank, organization, date of appointment, date of retirement and residence.

(9) Execute and enforce the policies of the Commonwealth relative to the Pennsylvania military forces.

(10) Make such bylaws, rules and regulations for the management, general direction and control of the property of the Pennsylvania Soldiers' and Sailors' Home or homes wherever situate.

(11) Coordinate with other Commonwealth agencies and departments, and the respective agencies of the Federal Government, all matters relating to veterans' affairs within this Commonwealth.

(12) Appoint a Deputy Adjutant General for Veterans' Affairs, who shall serve as the Director of the Bureau for Veterans' Affairs.

(13) Approve issuance of a policy or policies of group life insurance to an association or associations to cover members of the Pennsylvania National Guard.

(14) Authorize the admittance of any member of a group which has been granted veterans status by the Secretary of Defense and any spouse of a member to State veterans' homes, using admission criteria and procedures as established by the department by regulation.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.; Apr. 29, 1998, P.L.296, No.49, eff. imd.; May 15, 1998, P.L.443, No.59, eff. imd.)

1998 Amendments. Act 49 amended par. (12) and Act 59 amended the entire section. Act 59 overlooked the amendment by Act 49, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 902.

§ 903. Providing subsistence, supplies, equipment and expenses.

The necessary subsistence, supplies, equipment and expenses incident to any active State service, including the transportation of troops, may be contracted for under direction of the Governor as Commander-in-Chief, by the Adjutant General or any other officer designated for that purpose, to be paid for as otherwise provided by law, except when such active service is under the orders of the Department of Defense when subsistence, supplies, equipment and other expenses incident to any active State service, including transportation, is furnished by the Federal Government.

§ 904. Payment of emergency expenses.

When the Pennsylvania National Guard, or any portion thereof, is ordered on active State duty by the Governor as Commander-in-Chief for the internal security of this Commonwealth or in case of disaster within this Commonwealth, the payment of the troops and all other expenses incident to such services will be made by the Adjutant General from funds obtained in the manner provided by law. If the Pennsylvania National Guard, or any portion thereof, shall be called into the active service of the United States by the President, all necessary expenses incident to the mobilization under such call shall be paid by the Adjutant General from funds as authorized by the Federal Government. The necessary transportation, supplies, equipment and necessary expenses incident to such Federal active duty within this Commonwealth or mobilization under the call of the President may be contracted for under direction of the Governor by the Adjutant General or other officer or officers designated for that purpose. The same shall be paid for by the Adjutant General from funds obtained as provided by law, except when such expenses are paid by the Federal Government.

§ 905. Approving appointment of Federal personnel.

The Adjutant General shall approve all appointments of personnel authorized by the laws of the United States to care for Federal property and assist in the administration of the Pennsylvania National Guard. The appointment of personnel will not be made without meeting all the requirements and qualifications imposed by existing laws and regulations.

§ 906. Delegating responsibility for requisitioning Federal supplies.

The responsibility of requisitioning, procurement, storage and issue of Federal property, arms and equipment for use of the Pennsylvania National Guard may be delegated to the duly appointed United States Property and Fiscal Officers and the duly appointed Assistant United States Property and Fiscal Officers for Air.

§ 907. Augmenting department headquarters staff.

(a) General rule.--With the approval of the Governor, the Adjutant General may augment the department headquarters with qualified personnel in the following categories:

Retired Pennsylvania National Guard.
Inactive Pennsylvania National Guard.
Pennsylvania Guard.
Retired Personnel, any Federal armed service.

(b) Status of appointed personnel.--Personnel so appointed shall be assigned by the Governor and shall have all the rights, privileges and responsibilities under this title granted military personnel, and will take rank according to date of commission. Officers, warrant officers and enlisted personnel thus appointed will not be entitled to pay and allowances for drill or instruction periods but will be entitled to regular expenses as authorized when performing official duties away from home stations unless otherwise prohibited by the Constitution of Pennsylvania.

(c) Absence of headquarters staff.--During the absence of the Federally recognized Headquarters and Headquarters Detachment of the Pennsylvania National Guard under call or order in the service of the United States, the Adjutant General is authorized to form a State Staff and Detachment of the Pennsylvania Guard to carry out the duties and responsibilities of the department in connection with the military forces of this Commonwealth.

§ 908. Expenditures in connection with distinguished guests.

The Adjutant General is authorized to expend, not to exceed $10,000 annually, for the carrying out of his functions under this title for the entertainment of distinguished guests on official business. Payment shall be made by the State Treasurer in the normal manner upon submission of proper voucher by the Adjutant General.

CHAPTER 11
PENNSYLVANIA NATIONAL GUARD

Sec.

1101. Pennsylvania National Guard as organized peacetime force.
1102. Composition and organization.
1103. General officers.
1104. Composition of units.
1105. Powers of a commanding general.
1106. Disbandment of units.
1107. Retention of ancient privileges.
1108. Administration of oaths and affirmations.

Enactment. Chapter 11 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 1101. Pennsylvania National Guard as organized peacetime force.

The organized armed forces of this Commonwealth during time of peace shall be and constitute the Pennsylvania National Guard and shall be subject at all times to the orders of the officers thereof. Nothing in this chapter shall be construed to prevent the Governor as Commander-in-Chief, at his discretion, to form cadres of authorized war time organizations for the purpose of preplanning.

§ 1102. Composition and organization.

The Pennsylvania National Guard shall consist of such personnel as may, under the act of Congress, be prescribed by the President of the United States as the portion of the

National Guard of the United States apportioned and assigned to this Commonwealth. The personnel of the Pennsylvania National Guard shall be organized according to the directives of the Department of the Army and the Department of the Air Force.

§ 1103. General officers.

(a) General rule.--Persons commissioned to and holding in the Pennsylvania National Guard the rank of general officer shall be known as general officers of the line. The number of general officers of the line of the Pennsylvania National Guard shall conform with the number of such officers allocated to this Commonwealth as authorized by the unit manning documents promulgated in conformity with the National Defense Act. General officers shall be appointed by the Governor with the consent of the Senate.

(b) Qualifications.--Each person appointed as a general officer of the line shall have the qualifications for promotion to general officer rank established by the Department of Defense.

§ 1104. Composition of units.

The composition of all units of the Pennsylvania National Guard, including the commissioned and enlisted personnel thereof other than those specifically provided for in this chapter, shall be fixed from time to time by the Governor and announced in orders, and shall, as far as practicable, be in accordance and in compliance with such regulations as may be promulgated by the Secretary of the Army and Secretary of the Air Force for the composition of the National Guard. Every such order shall have the same force and effect as if specifically enacted and provided for by statute.

§ 1105. Powers of a commanding general.

A general officer of the Pennsylvania National Guard commanding a division or non-divisional organizations and units equivalent to a division shall have all the power and authority of a major general under the rules and regulations prescribed, or hereafter to be prescribed, for the government of the armed forces of the United States, subject to the orders and direction of the Governor as Commander-in-Chief. A division commander or commanding general of a non-divisional unit shall be responsible for the training, discipline, administration and efficiency of the division or non-division troops under his command and of any troops attached thereto. He shall be responsible for making recommendations to the Adjutant General concerning appointment and promotion of officers, and shall cause such inspections, investigations and reports to be made for the troops under his command as may be required by higher authority. He shall appoint such boards and courts-martial as may be required and authorized. This section shall also apply to general officers of the Pennsylvania Guard when organized.

§ 1106. Disbandment of units.

If it appears to the Governor as Commander-in-Chief that a unit of the Pennsylvania National Guard cannot discharge the duties required of it, such unit may be disbanded by the Governor, if in his judgment the interests of the service justify it, subject to the restrictions of the National Defense Act.

§ 1107. Retention of ancient privileges.

Any unit of artillery, cavalry or infantry existing in this Commonwealth on the passage of the act of Congress of May 8, 1792, which by the laws, customs or usages of this Commonwealth has been in continuous existence since the passage of said act shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by this title. Said

organizations may be a part of the Pennsylvania National Guard and entitled to all the privileges thereof and shall conform in all respects, except as to cornets, to the organization, discipline and training of the National Guard in time of war. For the purpose of training and when on active duty in the service of the United States, they may be assigned to higher units, as the Governor may direct, and shall be subject to the orders of officers under whom they shall be serving.

§ 1108. Administration of oaths and affirmations.

(a) General rule.--General officers, field grade officers, adjutants, administrative officers (Air Force), summary courts and judge advocates are hereby authorized and empowered to administer oaths and affirmations in all matters pertaining to and concerning the Pennsylvania National Guard, and all commissioned officers are authorized and empowered to administer oaths and affirmations in the enlistment of personnel for the Pennsylvania National Guard.

(b) Penalty for false oath.--Any person who shall falsely swear or affirm to any oath or affirmation before any such officer shall be guilty of a misdemeanor of the third degree.

CHAPTER 13
PENNSYLVANIA GUARD

Sec.

1301. Composition of Pennsylvania Guard.
1302. Designation and change of location of units.
1303. General officers of Pennsylvania Guard.

Enactment. Chapter 13 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 1301. Composition of Pennsylvania Guard.

The Pennsylvania Guard shall consist of such units as may be prescribed by the Governor.

§ 1302. Designation and change of location of units.

The Governor shall designate the location of the several organizations and units and may change the same at his discretion. Organizations and units shall be located wherever practicable in armories owned by the Commonwealth.

§ 1303. General officers of Pennsylvania Guard.

(a) General rule.--Persons commissioned to and holding in the Pennsylvania Guard the rank of general officer shall be known as general officers of the Pennsylvania Guard. The number of general officers shall be determined by the Governor. General officers shall be appointed by the Governor with the consent of the Senate unless previously confirmed as a general officer by the Senate.

(b) Qualifications.--Any person appointed a general officer of the Pennsylvania Guard shall have served at least ten years as a commissioned officer in either the Pennsylvania National Guard, Pennsylvania Guard or any of the armed forces of the United States or their reserve components, which service may be cumulative.

CHAPTER 15
STATE ARMORY BOARD

Sec.

1501. Composition and general functions.
1502. Erection of armories.

1503. Management of armories.
1504. Purchase or lease of ground for armories.
1505. Donation of land by political subdivisions.
1506. Donation of property and services by political subdivisions.
1507. Sale of unusable armories and land; sale or lease of timber and mineral rights.
1508. Payment of armory rentals by Commonwealth.
1509. Rental of armories.
1510. Property in armories of units in Federal service.
1511. State Treasury Armory Fund.
1512. Maintenance, construction and repairs.

Enactment. Chapter 15 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 1501. Composition and general functions.

The State Armory Board shall consist of the Adjutant General, who shall act as chairman, and eight members appointed by the Adjutant General. Three of the members of the State Armory Board appointed by the Adjutant General shall be members of the Pennsylvania National Guard. The State Armory Board shall exercise the powers, duties and provisions of this chapter. The board shall appoint a secretary who need not be a member of the board. It shall provide, equip, maintain, manage and regulate armories for the use of the Pennsylvania military forces. It may, with the approval of the Governor, accept gifts of land, with or without buildings thereon, to be used for military purposes. The title to all such land shall be taken in the name of the Commonwealth. It may also employ funds appropriated to it to purchase, for armory purposes, any suitable buildings or sites.

(June 19, 2002, P.L.433, No.63, eff. 60 days)

§ 1502. Erection of armories.

The Armory Board is hereby empowered and directed to erect or provide anywhere within the limits of this Commonwealth, upon such terms and conditions as shall be decided upon by said Armory Board, armories for the use of the Pennsylvania National Guard. These armories shall be used for training assemblies, meetings and rendezvous purposes by the organizations of the Pennsylvania National Guard and, when organized, the Pennsylvania Guard.

§ 1503. Management of armories.

The Armory Board shall constitute a board for the general management and care of said armories, when established, and shall have the power to adopt and prescribe rules and regulations for their management and government, and formulate such rules for the guidance of the organization occupying them as may be necessary and desirable.

§ 1504. Purchase or lease of ground for armories.

The Armory Board shall have full authority to purchase or lease ground in the various localities throughout this Commonwealth where it shall be deemed necessary to provide armories. The ground in each instance shall be purchased or leased in the name and for the use of the Commonwealth of Pennsylvania, and upon the ground so purchased or leased, the Armory Board is authorized and directed to erect an armory or use said land for the benefit of the Pennsylvania military forces. When such armory or armories are erected or provided, the said Armory Board shall have charge thereof and arrange for its occupancy and use, under the direction and responsibility of the senior officer in command of the using unit or organization.

§ 1505. Donation of land by political subdivisions.

It shall be lawful for any county, city, borough, town or township to acquire by purchase or by gift, or by the right of eminent domain, any land for the use of the Pennsylvania National Guard, and to convey such lands so acquired to the Commonwealth of Pennsylvania. The proceedings for the condemnation of lands under the provisions of this chapter and for the assessment of damages for the property taken, injured or destroyed shall be taken in the same manner as is now provided by 26 Pa.C.S. (relating to eminent domain).

(May 4, 2006, P.L.112, No.34, eff. 120 days)

2006 Amendment. Section 6(1) of Act 34 provided that Act 34 shall apply to all condemnations effected on or after the effective date of section 6.

§ 1506. Donation of property and services by political subdivisions.

(a) General rule.--Any political subdivision of this Commonwealth is hereby authorized and empowered, either independently or in connection with any other political subdivision of this Commonwealth, to provide and appropriate moneys or convey land to the Commonwealth of Pennsylvania to assist the Armory Board in the erection of armories for the use of the Pennsylvania National Guard. Any political subdivision may furnish water, light or fuel, either or all, free of cost to the Commonwealth of Pennsylvania, for use in any armory of the Pennsylvania National Guard, and to do all things necessary to accomplish the purpose of this chapter.

(b) Authority of government units.--The Armory Board shall have power to receive from any political subdivisions or other sources, donations of land, or contributions of money, to aid in providing or erecting armories throughout this Commonwealth for the use of the Pennsylvania National Guard and which shall be held as other property for the use of the Commonwealth of Pennsylvania. Such political subdivisions are hereby authorized to make such donations or contributions for the purpose of this chapter.

§ 1507. Sale of unusable armories and land; sale or lease of timber and mineral rights.

(a) General rule.--

(1) Whenever, in the opinion of the Armory Board, any armory building, armory site, or other real estate owned by the Commonwealth is no longer suitable for military services due to change in population or to the needs of the military service, the board may sell the property in accordance with law.

(2) Whenever, in the opinion of the Armory Board, timber or other mineral rights at Fort Indiantown Gap, any State armory or any other military lands or facilities may be sold or leased without disruption of the usual military purposes of the property and without undue adverse impact upon the local environment, the board may sell or lease the rights in accordance with law.

(b) Disposition of proceeds.--All money derived from sale of property under subsection (a)(1) or from sale or lease of rights under subsection (a)(2) shall be paid into the State Treasury Armory Fund.

(July 11, 1990, P.L.430, No.104, eff. imd.; June 15, 1994, P.L.277, No.47, eff. 60 days)

§ 1508. Payment of armory rentals by Commonwealth.

The annual rental of all armories and buildings not owned by the Commonwealth and occupied by any organization, shall be

paid by the State Treasurer in the manner provided by law. All payments for light, heat, water and janitor services in rented armories and buildings shall be made by the Department of Military Affairs upon properly itemized vouchers, except where such services are furnished by the landlord under the rental contract.

References in Text. The Department of Military Affairs, referred to in this section, is now the Department of Military and Veterans Affairs.

§ 1509. Rental of armories.

The State Armory Board may issue such rules and regulations for the rental of armories for non-military purposes to responsible persons or organizations at scheduled rates approved by the State Armory Board. Notwithstanding any other provision of law, said rentals shall be payable to the State Treasury Armory Fund.

(July 11, 1990, P.L.430, No.104, eff. imd.)

§ 1510. Property in armories of units in Federal service.

(a) Custody and use.--When units of the Pennsylvania National Guard are called or ordered into the service of the United States, all furniture, permanent property and equipment located in their respective armories, purchased from State or municipal funds, or donated to the unit from private sources, will be left in the armory and will be taken into custody by the State Armory Board, to be used by units of Pennsylvania military forces assigned to said armory, until such time as the Pennsylvania National Guard unit or organization returns.

(b) Reassignment and disposition.--If, upon the reorganization of the Pennsylvania National Guard following a war or emergency, the organization is not reorganized or is assigned to another location within this Commonwealth, then the property in question becomes the property of the Commonwealth to assign, reassign and dispose of as the State Armory Board may decide or direct.

§ 1511. State Treasury Armory Fund.

(a) Establishment.--There is hereby established in the State Treasury a special revenue fund to be known as the State Treasury Armory Fund. The proceeds from the sale of any armory building, armory site or other real estate used for the State military forces, the proceeds from the sale or lease of timber or other mineral rights at Fort Indiantown Gap or at any other real estate used for the State military forces and the proceeds from the rental of any State armories or other facilities used by the State military forces shall be deposited in the State Treasury Armory Fund.

(b) Appropriation.--Moneys in the State Treasury Armory Fund are hereby appropriated to the Department of Military Affairs in such amounts as may be determined annually by the Governor to be used for the purposes specified in subsections (c) and (d).

(c) Augmentation to department.--An amount equal to the 1988-1989 rental revenues shall be provided to the department each year from the State Treasury Armory Fund.

(d) Expenditures from State Treasury Armory Fund.--The department may expend moneys from the State Treasury Armory Fund for the following purposes:

(1) Purchase of equipment, furniture and fixtures for State armories and other structures and facilities to be utilized by the Pennsylvania National Guard.

(2) Essential repairs and maintenance of State armories and other structures and facilities to be utilized by the Pennsylvania National Guard.

(3) Purchase or rental of lands, buildings or facilities for use as State armories.

(4) Construction of new armories and other structures and facilities to be utilized by the Pennsylvania National Guard.

(5) Support of environmental projects and programs at Fort Indiantown Gap, any State armory or any other military lands or facilities.

(July 11, 1990, P.L.430, No.104, eff. imd.; June 15, 1994, P.L.277, No.47, eff. 60 days)

1994 Amendment. Act 47 amended subsecs. (a) and (d)(1), (2) and (4) and added subsec. (d)(5).

1990 Amendment. Act 104 added section 1511.

References in Text. The Department of Military Affairs, referred to in subsec. (b), is now the Department of Military and Veterans Affairs.

§ 1512. Maintenance, construction and repairs.

Notwithstanding the provisions of any other law to the contrary, the Armory Board may carry out all maintenance activities with respect to an armory if the cost does not exceed $100,000 and may carry out contracts for repair or construction of armories and other State-owned buildings or facilities under the jurisdiction of the department up to an amount of $100,000.

(Dec. 7, 1994, P.L.844, No.119, eff. 60 days; May 15, 1998, P.L.443, No.59, eff. imd.)

CHAPTER 17
STATE VETERANS' COMMISSION AND DEPUTY ADJUTANT GENERAL FOR VETERANS' AFFAIRS

Subchapter

A. State Veterans' Commission
B. Deputy Adjutant General for Veterans' Affairs
C. Funds
D. County Directors of Veterans Affairs

Enactment. Chapter 17 was added April 29, 1998, P.L.296, No.49, effective immediately.

Prior Provisions. Former Chapter 17, which related to State Veterans' Commission, was added April 29, 1988, P.L.381, No.60, and repealed April 29, 1998, P.L.296, No.49, effective immediately.

SUBCHAPTER A
STATE VETERANS' COMMISSION

Sec.

1701. Definitions.
1702. State Veterans' Commission.
1703. General powers and duties.
1704. Specific powers and duties.
1705. Veterans' home hall of fame.

§ 1701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." The State Veterans' Commission established by this chapter.

§ 1702. State Veterans' Commission.

(a) Establishment.--There is hereby established within the department an advisory commission to be known as the State Veterans' Commission.

(b) Composition.--The commission shall be composed of:

(1) The Adjutant General, ex officio, or his designee.

(2) The State commander, commandant or head, or his designee, of each of the following named veterans' organizations:

(i) The American Legion.

(ii) AMVETS.

(iii) Blinded Veterans Association.

(iv) Catholic War Veterans of the United States of America.

(v) Disabled American Veterans.

(vi) Jewish War Veterans of the United States.

(vii) Marine Corps League.

(viii) Military Order of the Purple Heart.

(ix) State Association of County Directors of Veterans' Affairs.

(x) Veterans of Foreign Wars of the United States.

(xi) (Deleted by amendment).

(xii) Italian-American War Veterans of the United States, Inc.

(xiii) The Vietnam Veterans of America, Inc.

(xiv) American Ex-Prisoners of War.

(xv) Keystone Paralyzed Veterans Association.

(xvi) Military Officers Association of America.

(xvii) The Korean War Veterans Association, Inc.

(3) Four members at large appointed by the Governor from a list provided by the Adjutant General, each of whom shall be a veteran and a member in good and regular standing of a Pennsylvania branch, post, lodge or club of a recognized national veterans' organization active in this Commonwealth. At least one member shall be a female veteran, and at least one member shall be a veteran of the Vietnam era. Members at large shall serve a term of four years and until a successor has been appointed.

(4) The State Adjutants of the American Legion, the Disabled American Veterans (DAV) and the Veterans of Foreign Wars (VFW) and the Executive Director of AMVETS as nonvoting members.

(c) Officers.--The commission shall annually elect a chairman and vice chairman at the first meeting of the commission after October 1. The Deputy Adjutant General for Veterans' Affairs shall serve as the executive secretary to the commission.

(d) Compensation and expenses.--Members of the commission shall receive no compensation for their services but shall receive reimbursement for their necessary and proper expenses for attendance at meetings.

(e) Meetings and quorum.--The commission shall meet upon the call of the chairman or the Adjutant General. Nine members of the commission shall constitute a quorum.

(f) Declared vacancies.--The Governor, upon recommendation of the Adjutant General, shall declare a vacancy to exist whenever any member at large fails to attend three consecutive

meetings without good cause. Any declared vacancy shall be filled for the unexpired term.
(June 25, 1999, P.L.233, No.33, eff. imd.; Nov. 22, 2000, P.L.670, No.90, eff. imd.; May 12, 2010, P.L.200, No.28, eff. imd.; June 13, 2016, P.L.335, No.42, eff. 60 days)

2016 Amendment. Act 42 amended subsec. (b)(2).
2000 Amendment. Act 90 amended subsec. (b).
Cross References. Section 1702 is referred to in sections 1711, 1731, 8501, 8701, 8901, 9304 of this title.

§ 1703. General powers and duties.

The commission shall advise the Adjutant General and the department on all matters pertaining to the status, welfare, benefits, employment and support of veterans and veterans' programs in this Commonwealth and shall perform such other functions as are provided by law.

§ 1704. Specific powers and duties.

The commission shall have the following powers and duties:

(1) Advise the Adjutant General upon such matters as the Adjutant General may bring before it.

(2) Investigate the work of the department and make recommendations to it regarding the department's administration of the laws providing for the payment of pensions and relief, for the marking of graves of veterans and for the selection, acquisition and maintenance of a State military cemetery.

(3) Investigate and recommend to the Governor legislation for submission to the General Assembly concerning veterans and their activities.

(4) Oversee veterans' temporary assistance payments under Chapter 85 (relating to veterans' temporary assistance).

(5) Certify educational gratuity payments for eligible children under Chapter 87 (relating to educational gratuity program).

(6) Determine eligibility of veteran applicants for real property tax exemptions under Chapter 89 (relating to disabled veterans' real estate tax exemption).

(7) Promulgate rules and regulations governing all actions of the commission under paragraphs (4), (5) and (6).

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

2016 Amendment. Act 109 amended par. (4).
Cross References. Section 1704 is referred to in section 710 of this title.

§ 1705. Veterans' home hall of fame.

(a) General rule.--Each veterans' home operated by the Commonwealth shall establish and dedicate a hall of fame to recognize and honor the military achievements of outstanding veterans who have completed honorable, active duty military service and who reside or resided in the geographic region served by the veterans' home. The area or space in the veterans' home dedicated to the hall of fame may be used for other purposes.

(b) Selection of inductees.--The advisory council for each veterans' home shall, consistent with the guidelines established by the commission in subsection (c), nominate eligible veterans for induction into the hall of fame by the commission and perform such other duties relating to the hall of fame as approved by the commission. Any Medal of Honor recipient shall be automatically inducted into the hall of fame.

(c) Oversight.--The commission shall develop guidelines for the halls of fame. The guidelines shall include, but not be limited to:

(1) Eligibility criteria for qualified candidates.

(2) Procedures for nomination of candidates and selection of inductees.

(3) Ceremonies to officially honor the inductees.

(4) Manner of recognizing or presenting the inductees in the halls of fame.

(5) Maintenance of the halls of fame.

(6) Duties of the advisory councils of the veterans' homes relating to the halls of fame.

(d) Documentation.--Each eligible veteran or his or her representative shall be responsible for obtaining the documentation necessary to establish his or her eligibility from the National Archives in Washington, D.C., or the National Personnel Record Center in St. Louis, Missouri.

(e) Centralized list.--The State Veterans' Commission shall keep a centralized list of all hall of fame inductees from all regional veterans' homes.

(June 22, 2000, P.L.343, No.40, eff. 60 days)

2000 Amendment. Act 40 added section 1705.

SUBCHAPTER B
DEPUTY ADJUTANT GENERAL FOR VETERANS' AFFAIRS

Sec.

1711. Qualifications and status.
1712. Specific duties.

§ 1711. Qualifications and status.

(a) Deputy Adjutants General.--In addition to such other Deputy Adjutants General as may be named in the department, there shall be a Deputy Adjutant General for Veterans' Affairs, who shall perform the duties under section 1712 (relating to specific duties) and such other duties as the Adjutant General may assign.

(b) Appointment.--The Deputy Adjutant General for Veterans' Affairs shall be selected and appointed as other Deputy Adjutants General are selected and appointed. He shall be a veteran and an active member of at least one of the veterans' organizations listed under section 1702(b) (relating to State Veterans' Commission).

(c) Compensation.--The compensation of the Deputy Adjutant General for Veterans' Affairs shall be as established by law.

(d) Status.--The Deputy Adjutant General for Veterans' Affairs shall be accorded all the rights, emoluments and privileges, except pay and allowances, of a brigadier general in the Pennsylvania Guard and shall be addressed as "General."

§ 1712. Specific duties.

In addition to such other duties as may be provided by law or as assigned by the Adjutant General, the Deputy Adjutant General for Veterans' Affairs shall have the following specific duties:

(1) To recommend to the Adjutant General and the Governor, with the advice of the State Veterans' Commission, new legislation and amendments to existing statutes concerning veterans and their activities for consideration by the General Assembly.

(2) To cooperate with all Federal and State departments and agencies in the interest of veterans.

(3) To aid in filing and prosecuting claims of Pennsylvania's veterans and their dependents under Federal or State laws or regulations.

(4) To aid veterans in seeking employment or reemployment after their honorable discharge from the armed forces of the United States.

(5) To aid veterans requiring medical care in securing hospitalization provided by a Federal or State medical or care facility.

(6) To aid in the rehabilitation of injured, wounded or compensable veterans in educational institutions or vocational training institutions for which they may be eligible by law.

(7) To cooperate with and advise the Department of Education with respect to vocational training programs for veterans, particularly programs suited to casualties.

(8) To administer relief provided by the Commonwealth for veterans and their dependents.

(9) To administer the distribution under the direction of the Adjutant General of any compensation to veterans or their dependents that has been or may be granted by the Commonwealth.

(10) To investigate the work of other State agencies in administering laws affecting veterans and their dependents.

(11) To investigate, compile and maintain complete and accurate data concerning veterans of the armed forces of the United States and all State and municipal activities related thereto.

(12) To compile from the records transmitted from the various counties of this Commonwealth a record of the burial places in this Commonwealth of deceased veterans, including such information as the Deputy Adjutant General for Veterans' Affairs or his designee deems necessary and appropriate.

(13) To disseminate information concerning Pennsylvania's veterans and Pennsylvania's veterans' programs to veterans' organizations, to the public press and other media and to the general public.

(14) To biannually submit, through the Adjutant General, to the Governor a report of State activities on behalf of veterans.

(15) To serve as a clearinghouse for all problems or issues related to Pennsylvania's veterans and their dependents.

(16) To serve as Executive Secretary of the State Veterans' Commission.

Cross References. Section 1712 is referred to in section 1711 of this title.

SUBCHAPTER C
FUNDS

Sec.

1721. Veterans' Trust Fund.

Enactment. Subchapter C was added October 24, 2012, P.L.1602, No.194, effective in 30 days.

§ 1721. Veterans' Trust Fund.

(a) Source of revenue.--In addition to transfers under section 1719-G of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, the Veterans' Trust Fund shall include funds from the following sources:

(1) Proceeds paid by the Department of Transportation under 75 Pa.C.S. § 1320 (relating to contributions to Veterans' Trust Fund).

(2) Amounts payable to the fund under 75 Pa.C.S. §§ 1361 (relating to special motorcycle plates related to veterans) and 1364(b) (relating to special plates for veterans).

(2.1) Fines collected and payable to the fund under 18 Pa.C.S. § 6701 (relating to wearing of uniforms and insignia and misrepresentation of military service or honors).

(3) Grants, gifts, donations and other payments from a person or government entity.

(4) Money appropriated to the fund.

(b) Appropriation.--Money in the fund is appropriated on a continuing basis to the department for purposes set forth in subsection (c).

(c) Authorized purposes.--The department may expend money from the Veterans' Trust Fund for the following purposes:

(1) Grants for programs or projects to support Pennsylvania veterans and their families to:

(i) (Deleted by amendment);

(ii) veterans' service organizations; and

(iii) other charitable organizations with a primary mission to serve Pennsylvania veterans.

(2) Grants or funding for new, innovative and expanded activities or programs operated by a county director of veterans affairs or the State Association of County Directors of Veterans Affairs.

(3) (Deleted by amendment).

(4) Assistance to Pennsylvania veterans in need of shelter or other necessities of living to the extent that other funds or resources are not available under Chapter 85 (relating to veterans' temporary assistance).

(5) (Deleted by amendment).

(6) Payments to the Motor License Fund for actual costs incurred by the Department of Transportation to implement 75 Pa.C.S. §§ 1320 (relating to contributions to Veterans' Trust Fund) and 1510 (relating to issuance and content of driver's license).

(7) Department-sponsored training and informational programs for Pennsylvania veterans. No more than 10% of the balance in the fund as of October 1 of the previous year may be used for this purpose.

(d) Contributions.--The department may solicit and accept gifts, donations, legacies and other money for deposit into the fund from a person, a foundation, a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), an estate, a veterans' service organization or a government entity on behalf of the Commonwealth.

(e) Operation.--The department shall adopt a statement of policy for the maintenance and use of the fund within 60 days of the effective date of this section. The policy shall be published as a notice in the Pennsylvania Bulletin, but shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys

Act or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(f) Report.--By July 31, 2013, and every year thereafter, the department shall submit to the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives a report detailing the Veterans' Trust Fund revenues and expenditures in the prior fiscal year and describing the activities, programs and projects which received funds.

(July 8, 2015, P.L.120, No.18, eff. 60 days; Oct. 4, 2016, P.L.882, No.109, eff. imd.; June 28, 2018, P.L.432, No.64, eff. 60 days; July 2, 2019, P.L.393, No.62, eff. 60 days)

2019 Amendment. Act 62 added subsec. (a)(2.1).
2018 Amendment. Act 64 deleted subsec. (c)(5).
2016 Amendment. Act 109 amended subsecs. (c) and (d).
2015 Amendment. Act 18 amended subsec. (a).
Cross References. Section 1721 is referred to in section 6701 of Title 18 (Crimes and Offenses); section 1320 of Title 75 (Vehicles).

SUBCHAPTER D
COUNTY DIRECTORS OF VETERANS AFFAIRS

Sec.
1731. Accreditation.

Enactment. Subchapter D was added May 15, 2013, P.L.23, No.5, effective in 60 days.

§ 1731. Accreditation.

(a) Eligibility.--In order to be eligible for appointment as a director of veterans affairs in a county of this Commonwealth, a person must maintain a United States Department of Veterans Affairs accreditation in accordance with the provisions of 38 CFR § 14.629 (relating to requirements for accreditation of service organization representatives; agents; and attorneys) with one of the following:

(1) The department.

(2) A veterans' organization listed under section 1702(b) (relating to State Veterans' Commission).

(b) Time.--

(1) A person who is appointed as a director of veterans affairs in a county of this Commonwealth shall have up to one year from the date of appointment to attain the training and certification required under this title.

(2) A person who has been appointed as a director of veterans affairs in a county of this Commonwealth prior to the effective date of this section shall have one year from the effective date of this section to attain the training and certification required under this title.

(c) Additional duties.--In addition to the duties provided for under a statute other than this title, a director of veterans affairs shall do all of the following:

(1) Serve as a local contact between the United States Department of Veterans Affairs, the department and an individual in the armed forces of the United States, an individual who was discharged from the service and a dependent of the individual.

(2) Advise an individual in the armed forces, a veteran or a dependent of the individual or veteran of available Federal, State and county veterans' benefits.

(3) Aid an individual in the armed forces, a veteran or a dependent of the individual or veteran in completing required Federal, State and local veterans' affairs forms in compliance with current regulations and policies.

(4) Work under the direct supervision of the county commissioners and within the guidelines provided by the department and the United States Department of Veterans Affairs.

(5) Participate in programs provided by the department, including:

(i) Annual training and refresher courses provided by the Office of the Deputy Adjutant General for Veterans' Affairs.

(ii) Five-year recertification as required by the United States Department of Veterans Affairs for veterans' service officer accreditation.

(d) Office duties.--The Office of the Deputy Adjutant General for Veterans' Affairs shall establish a county director of veterans affairs training program, agreed upon with the State Association of County Directors of Veterans Affairs, which shall include the following:

(1) Development of program guidelines and procedures as required under this subchapter.

(2) Maintenance of training records.

(3) Maintenance of competency scores for purposes of documenting and monitoring accreditation status.

(4) Annual recertification and qualification.

CHAPTER 19
PENNSYLVANIA VETERANS' MEMORIAL COMMISSION

Sec.

1901. Legislative findings (Expired).
1902. Definitions (Expired).
1903. Pennsylvania Veterans' Memorial Commission (Expired).
1904. Duties of commission (Expired).
1905. Pennsylvania Veterans' Memorial Trust Fund.
1906. Expiration.

Enactment. Chapter 19 was added December 4, 1992, P.L.771, No.119, effective immediately and retroactive to June 30, 1992.

Prior Provisions. Former Chapter 19, which related to the same subject matter, was added April 29, 1988, P.L.381, No.60, and expired June 30, 1992.

§ 1901. Legislative findings (Expired).

2005 Expiration. Section 1901 expired June 30, 2005. See Act 8 of 2003.

§ 1902. Definitions (Expired).

2005 Expiration. Section 1902 expired June 30, 2005. See Act 8 of 2003.

§ 1903. Pennsylvania Veterans' Memorial Commission (Expired).

2005 Expiration. Section 1903 expired June 30, 2005. See Act 8 of 2003.

§ 1904. Duties of commission (Expired).

2005 Expiration. Section 1904 expired June 30, 2005. See Act 8 of 2003.

§ 1905. Pennsylvania Veterans' Memorial Trust Fund (Repealed).

2018 Repeal. Section 1905 was repealed June 28, 2018, P.L.432, No.64, effective in 60 days.

§ 1906. Expiration (Repealed).

2018 Repeal. Section 1906 was repealed June 28, 2018, P.L.432, No.64, effective in 60 days.

SUBPART B
OFFICERS AND ENLISTED PERSONNEL

Chapter

21. General Service
23. Pennsylvania National Guard
25. Pennsylvania Guard

CHAPTER 21
GENERAL SERVICE

Sec.

2101. Exemption from militia duty.

Enactment. Chapter 21 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 2101. Exemption from militia duty.

(a) General rule.--Members of the General Assembly, the judiciary and such other persons as the Governor by executive order may decree shall be exempt from militia duty.

(b) Exemption for religious belief.--All persons who because of religious belief shall claim exemption from militia service, if the conscientious holding of such belief for such person shall be established under the regulations prescribed by the Governor, shall be exempted from militia service in a combatant capacity, but no person so exempted shall be exempt from militia service in any capacity that the Governor shall declare to be noncombatant.

(c) Volunteers.--This section shall not be construed to prevent any person exempted from voluntarily enlisting or accepting a commission in the Pennsylvania military forces.

CHAPTER 23
PENNSYLVANIA NATIONAL GUARD

Sec.

2301. Appointment of commissioned officers.
2302. Appointment of warrant officers.
2303. Oath of commissioned and warrant officers.
2304. Compensation of military officers in service to the Commonwealth.
2305. Promotion of commissioned and warrant officers.
2306. Powers of commissioned, warrant and noncommissioned officers.
2307. Uniforms of commissioned officers.
2308. Term of commissioned and warrant officers.

2309. Discharge and removal of commissioned and warrant officers.
2310. Holding officers as supernumerary pending settlement.
2311. Enlistment of enlisted personnel.
2312. Discharge of enlisted personnel.
2313. Retired Pennsylvania National Guard personnel.
2314. Status when called into temporary Federal service.
2315. Status when ordered into active Federal service.
2316. Transfer of unaccepted personnel to Pennsylvania Guard.
2317. Temporary commander of unit.

Enactment. Chapter 23 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Special Provisions in Appendix. See the preamble to Act 174 of 1990 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 2301. Appointment of commissioned officers.

All commissioned officers shall be appointed by the Governor and be commissioned according to the rank in the arm or service in which they are appointed. They shall meet all the requirements and qualifications now or hereafter prescribed by the laws of the United States and the rules and regulations promulgated thereunder for the organization and regulation of the Pennsylvania National Guard. No officer shall be commissioned until he shall have successfully passed such tests as to his physical, moral and professional fitness as shall be prescribed in relation thereto.

§ 2302. Appointment of warrant officers.

All warrant officers shall be appointed by the Governor and the warrant will bear the grade and warrant officer classification. Warrant officers shall meet all the requirements and qualifications now or hereafter prescribed by the laws of the United States and the rules and regulations promulgated thereunder for the organization and regulation of the Pennsylvania National Guard.

§ 2303. Oath of commissioned and warrant officers.

All commissioned officers and warrant officers shall take the following oath: "I,....., do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the Commonwealth of Pennsylvania; that I make this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of.....in the National Guard of the Commonwealth of Pennsylvania upon which I am about to enter, so help me God."

§ 2304. Compensation of military officers in service to the Commonwealth.

The following apply:

(1) The annual salary of the Adjutant General, Deputy Adjutant Generals and general officers that require Federal and State recognition for positions in the Pennsylvania National Guard and who are permanently employed by the Commonwealth shall be paid equivalent to the Federal military base pay of the officer's federally recognized rank and time of service, not to exceed 20 years.

(2) The cost-of-living adjustment shall be based on the annually published active duty military pay scale.

(July 2, 2019, P.L.365, No.55, eff. Jan. 1, 2020)

§ 2305. Promotion of commissioned and warrant officers.

The Governor has the power to promote officers and warrant officers of the Pennsylvania National Guard in accordance with the laws of the United States and rules and regulations promulgated thereunder.

§ 2306. Powers of commissioned, warrant and noncommissioned officers.

Commissioned officers, warrant officers and noncommissioned officers of the Pennsylvania National Guard under their State commissions and warrants shall have all the powers inherent with command and training responsibility as are granted officers, warrant officers and noncommissioned officers of like rank and grade in the armed forces of the United States by law, policy and customs of the service.

§ 2307. Uniforms of commissioned officers.

Every commissioned officer and warrant officer shall furnish his own uniforms which shall be as prescribed by the Adjutant General, in accordance with Federal rules and regulations. An allowance for this purpose, not to exceed $300 for each officer upon commissioning, may be prescribed by the Governor. In addition thereto, the Governor may prescribe a further allowance not to exceed $50 in any one year for each officer, for the maintenance of such uniforms.

§ 2308. Term of commissioned and warrant officers.

The term of every commissioned officer and warrant officer shall be permanent or until terminated by reason of death, retirement, physical disqualification, acceptance by proper authority of resignation, action by a properly constituted board or court martial, or in accordance with Federal regulations governing withdrawal of Federal recognition of a commissioned officer or warrant officer.

§ 2309. Discharge and removal of commissioned and warrant officers.

(a) Discharge for unfitness.--At any time, the moral character, capacity and general fitness for the service of any Pennsylvania National Guard officer or warrant officer may be determined by a fitness board or court of inquiry of three commissioned officers, senior in rank, if possible, to the officer whose fitness for service shall be under investigation. This board shall be appointed by the Governor, in the case of general officers and officers of the headquarters Pennsylvania National Guard, and by the Adjutant General in all other cases. If the findings of such board be unfavorable to such officer or warrant officer and be approved by the Governor he shall be discharged.

(b) Grounds for vacating commission or warrant.--Commissions of officers or warrants of warrant officers of the Pennsylvania National Guard may be vacated for any of the following reasons:

(1) Upon the recommendation of a fitness board.

(2) If recourse occurs on his bond in the settlement of his financial or property accounts.

(3) If he has been convicted of a felony.

(4) Upon withdrawal of Federal recognition.

(c) Grounds for vacating office or assignment.--When a commissioned or warrant officer of the Pennsylvania National Guard retires, accepts an appointment to another office therein, is transferred to the Inactive National Guard, resigns, is relieved from active duty but held as a supernumerary, or dies, the office or assignment previously held shall be deemed to have been vacated.

§ 2310. Holding officers as supernumerary pending settlement.

A commissioned officer responsible for Commonwealth funds or Commonwealth property or property of the United States issued to him by the Adjutant General or United States property and disbursing officer, or acquired by transfer, inventory or purchase from annual allowance of Commonwealth funds, who may tender his resignation or who may be relieved from command by competent orders of the Governor, and whose accounts are not settled, may be held as supernumerary pending settlement of his accounts. A commissioned officer so held as supernumerary shall be amenable to court-martial for military offenses to the same extent and in like manner as if upon the active list.

§ 2311. Enlistment of enlisted personnel.

(a) Qualifications.--Every enlisted person shall meet all the qualifications prescribed by the laws of the United States and the rules and regulations promulgated thereunder.

(b) Enlistment contract and oath.--Every person enlisting in the Pennsylvania National Guard shall sign an enlistment contract and take and subscribe to the oath of enlistment prescribed by the current Federal regulations.

(c) Extending term of enlistment.--The Adjutant General, with the approval of the Governor, may, upon request by appropriate Federal authority, extend the term of enlistment contracted for by a term not exceeding 12 months.

(d) Denial of extension of enlistment or reenlistment.--Upon the expiration of the term of service of an enlisted person, if good and sufficient reasons exist for the unit commander to believe that it would not be in the best interests of the Pennsylvania National Guard to permit this person to reenlist or extend his enlistment contract, such unit commander may deny reenlistment or extension of enlistment.

§ 2312. Discharge of enlisted personnel.

(a) General rule.--An enlisted person discharged from service in the Pennsylvania National Guard shall receive a discharge in writing in such form and with such classification as shall be prescribed by the National Guard Bureau, and in time of peace discharges may be given prior to the expiration of terms of enlistment, under such regulations as the Governor may prescribe, subject to the restrictions of the National Defense Act, or amendments thereto.

(b) Termination of Federal service.--On termination of an emergency in which enlisted personnel of the Pennsylvania National Guard shall have been called into the Federal service by the President of the United States in accordance with the provisions of the National Defense Act, such enlisted personnel shall continue to serve in the National Guard until the dates upon which their enlistment entered into prior to their call into the Federal service would have expired if uninterrupted.

(c) Termination of enlistment.--The term of enlistment of every enlisted person's enlistment contract will be for the period of his enlistment or until terminated by reason of any of the following:

(1) Death.

(2) Reaching the maximum age-in-grade limitations provided in Army and Air National Guard regulations.

(3) Physical disqualification.

(4) Any other reason enumerated in this title or for reasons specified in Army or Air National Guard regulations.

(d) Failure to meet qualifications.--In addition to the provisions of subsection (c), if during the term of enlistment it is determined that an enlisted person does not meet all the prescribed qualifications specified by the Federal regulations

and if a waiver is not appropriate or authorized, then the enlisted person shall be discharged.

§ 2313. Retired Pennsylvania National Guard personnel.

(a) Promotions.--Every former officer, warrant officer or enlisted person may be promoted to the next higher grade on the Pennsylvania National Guard retired list above that presently held in a grade Federally recognized upon application and recommendation of the next higher level within the eligible retiree's chain of command if the applicant:

(1) has served a total of 25 years in the armed forces of the United States or its components, 10 years of which includes service in the Pennsylvania National Guard with active Federal service counting as double time. The 25 years service shall be such as would be credited for retirement of National Guard and Reserve personnel; or

(2) has attained the grade of major general in the Pennsylvania National Guard and has been Federally recognized in such grade; or

(3) has served honorably and with distinction in the Pennsylvania Army National Guard, Pennsylvania Air National Guard or both for a period of 25 or more years and who has served in his highest grade for at least one year.

Promotion to general officer on the retired list shall not require the consent of the Senate.

(a.1) Approval process.--A retiree's application for promotion shall be reviewed and approved in accordance with applicable regulations. The Adjutant General retains final approval authority.

(b) Computation of period of service.--In considering the period of service under this section, the following applies to calculation of deployment periods:

(1) For Pennsylvania National Guard service members deployed outside of the continental United States pursuant to 10 U.S.C. (relating to armed forces), time is doubled for this specific period of service.

(2) Pennsylvania National Guard service that counts as double time under paragraph (1) may only be calculated for and applied in the determination of the required years of service in the Pennsylvania National Guard under subsection (a)(1).

(c) Wearing uniform following retirement.--All retired officers and enlisted personnel are only entitled to wear the uniform and rank insignia of their federally recognized grade on all proper military and semi-military occasions in accordance with all applicable military uniform regulations.

(d) Applicability of section.--The provisions of retirement with increased rank shall be applicable when applied to officers retired prior to the effective date of this section and the provisions of this section shall apply to deceased officers on the retired list upon proper application to the Adjutant General by some duly recognized veterans' organization.

(Dec. 17, 2015, P.L.459, No.83, eff. 60 days)

2015 Amendment. Section 2 of Act 83 provided that the Adjutant General shall promulgate rules and regulations to administer and enforce the amendment of section 2313.

Cross References. Section 2313 is referred to in section 2504 of this title.

§ 2314. Status when called into temporary Federal service.

(a) General rule.--When any or all parts of the Pennsylvania National Guard are called as such into the service of the United States, their units and members retain their State status as

Federally recognized units and members of the Pennsylvania National Guard in a state of temporary suspension. Under a Presidential call, officers of the Pennsylvania National Guard shall continue to be appointed by the State and neither officers nor enlisted personnel may be held to service beyond the terms of their existing commissions or enlistments while in the service of the United States.

(b) Termination of service.--When the call into the service of the United States has been terminated and organizations, units and personnel are returned to their status as the Pennsylvania National Guard, personnel shall continue to serve in the Pennsylvania National Guard until the date which their commission or enlistment entered into prior to the call or during the call would have expired if uninterrupted.

§ 2315. Status when ordered into active Federal service.

(a) General rule.--When any or all of the units and members of the Pennsylvania National Guard are ordered into the active military service of the United States, they stand relieved from duty in the Pennsylvania National Guard during the period of such active military service, irrespective of the term of their existing commissions or enlistments. Their prior status as units and members of the Pennsylvania National Guard continues to exist as an underlying and temporarily suspended status of origin to which they may and do return upon relief from the active military service of the United States.

(b) Termination of service.--When the duration of their active military service of the United States is of such a duration and units and members so intermingled with other organizations and units of the armed forces of the United States that makes it impracticable for the units and members to return to that prior status as units and members of the Pennsylvania National Guard and it therefore becomes necessary to completely reorganize the Pennsylvania National Guard, former members, who accept a commission or enlist in the reorganized Pennsylvania National Guard under the conditions then applicable and prior to the date of Federal recognition, shall have their service for the purpose of longevity, State retirement, medals and awards count as continuous and uninterrupted.

§ 2316. Transfer of unaccepted personnel to Pennsylvania Guard.

When the Pennsylvania National Guard, or any part thereof, is ordered or called into the service of the United States, officers, warrant officers and enlisted personnel of the Pennsylvania National Guard not accepted for Federal service because of physical defects, age or other cause may be immediately transferred to the rolls of the Pennsylvania Guard and assigned to units or organizations of the Pennsylvania Guard by the department. The officer, warrant officer and enlisted personnel so transferred may serve in the Pennsylvania Guard for the duration of the emergency plus six months unless sooner discharged under the terms of their State commission or enlistment contract.

§ 2317. Temporary commander of unit.

When a unit is without commissioned officers from any cause, the commanding officer of the next higher unit in the military chain of command of which it is a part shall detail an officer to command said organization until an officer has been appointed or assigned thereto.

CHAPTER 25
PENNSYLVANIA GUARD

Sec.

2501. Oath of commissioned officers.
2502. Physical qualifications of officers and enlisted personnel.
2503. Enlistment contract and oath.
2504. Retirement of commissioned officers and enlisted personnel.

Enactment. Chapter 25 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 2501. Oath of commissioned officers.

Each commissioned officer before entering upon the duties of his appointment shall take and subscribe the following oath: "I, ..., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania against all enemies; that I will bear true faith and allegiance to the same; that I will obey the orders of the Governor of the Commonwealth of Pennsylvania; that I make this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office ..... in the Pennsylvania Guard upon which I am about to enter."

§ 2502. Physical qualifications of officers and enlisted personnel.

The Governor will, by executive order, prescribe the age limitations and physical qualifications which will govern both officers and enlisted personnel in the Pennsylvania Guard, but no person shall be refused enlistment or a commission or in any way be discriminated against in the administration of this title by reason of his race, color, sex, creed or national origin.

§ 2503. Enlistment contract and oath.

Every person enlisting in the Pennsylvania Guard shall sign an enlistment contract and take and subscribe to the following oath of enlistment: "I do hereby acknowledge to have voluntarily enlisted this..... ....., 19 , as a soldier in the Pennsylvania Guard for the period of the emergency plus six months unless sooner discharged by proper authority, and I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the Commonwealth of Pennsylvania, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the order of the Governor of the Commonwealth of Pennsylvania and of the officers appointed over me according to law."

§ 2504. Retirement of commissioned officers and enlisted personnel.

Commissioned officers and enlisted personnel of the Pennsylvania Guard shall be controlled by section 2313 (relating to retired Pennsylvania National Guard personnel) for promotion on the Pennsylvania Guard retired list.

SUBPART C
PAY, ALLOWANCES, BENEFITS AND MEDALS

Chapter

31. Pennsylvania National Guard
32. Educational Assistance Program
33. Pennsylvania Guard
35. Disability Relief and Pensions
37. Decorations, Medals, Badges and Awards

CHAPTER 31
PENNSYLVANIA NATIONAL GUARD

Sec.
3101. Pay of officers and enlisted personnel on special duty.
3102. Pay of officers and enlisted personnel in active State service.
3103. Transportation and expenses of personnel on special duty.
3104. Tuition credit (Repealed).
3105. Association group life insurance for Pennsylvania National Guard.

Enactment. Chapter 31 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 3101. Pay of officers and enlisted personnel on special duty.

Members of the Pennsylvania National Guard or Pennsylvania Guard may be ordered upon special duty at the discretion of the Governor and shall receive the pay and allowances of their respective grades during the time they may continue upon duty under such order.

(Oct. 16, 1998, P.L.780, No.96, eff. imd.)

§ 3102. Pay of officers and enlisted personnel in active State service.

(a) General rule.--When the Pennsylvania National Guard or Pennsylvania Guard, or any part thereof, is ordered on active duty for State service by the Governor as Commander-in-Chief and pay is authorized for such duty under the order prescribing the performance thereof, the commissioned officers, warrant officers and enlisted personnel so ordered shall be entitled to the same pay and allowances and transportation in kind provided for in the current Armed Forces Pay and Allowance Act. Notwithstanding any provisions of such act, the pay of any such personnel shall not be less than $100 per day.

(b) Payments and deductions.--All payments of pay and service shall be made by the Adjutant General in the usual manner. No deductions shall be made from the pay of officers or enlisted personnel in active State service for dues or other financial obligations imposed by any bylaws, rules or regulations of a civil character.

(May 31, 1984, P.L.375, No.75, eff. imd.; Dec. 4, 1996, P.L.849, No.139, eff. imd.; July 1, 2016, P.L.438, No.61, eff. imd.)

§ 3103. Transportation and expenses of personnel on special duty.

Personnel in attendance upon court-martial, boards of examination, fitness boards and other necessary duty as prescribed by the Adjutant General shall receive transportation in kind as may be provided for in orders, and the necessary expenses lawfully incurred in the performance of any such duty shall be paid upon proper vouchers duly approved by the officer under whose orders the duty is performed.

§ 3104. Tuition credit (Repealed).

1996 Repeal. Section 3104 was repealed June 19, 1996, P.L.344, No.56, effective July 1, 1996. The subject matter is now contained in Chapter 32 of this title.

§ 3105. Association group life insurance for Pennsylvania National Guard.

(a) Voluntary participation for group life insurance.--The Adjutant General may approve issuance of group life insurance to nonprofit membership associations for members of the Pennsylvania National Guard, subject to the following requirements:

(1) The members eligible for insurance under the policy shall all be members of the Pennsylvania National Guard or their spouses or dependents. A member of the Pennsylvania National Guard who becomes insured under this program while a member may continue the insurance, including group term life insurance, after discharge or retirement from the Pennsylvania National Guard.

(2) The premium for the policy shall be paid by the individual members of the Pennsylvania National Guard or their spouses or dependents who elect to participate in the insurance plan either by direct payment or by allotment from military pay. An individual family member may insure his spouse or dependent without their signature or approval.

(3) The policy must cover at least 25 members of the Pennsylvania National Guard at the time of issue.

(4) The amounts of insurance under the policy must not exceed $400,000 per individual insured member and $100,000 per insured spouse or dependent.

(5) Participation in the insurance plan must be voluntary.

(6) Except as otherwise provided by this section, the policy or policies must comply with the provisions of the act of May 11, 1949 (P.L.1210, No.367), referred to as the Group Life Insurance Policy Law, and be approved by the Insurance Commissioner and the Adjutant General.

(7) The same policy can be made available to any Pennsylvania resident who is a member of a reserve component of the armed forces.

(b) Group life insurance for eligible members.--The Adjutant General shall approve issuance of group life insurance to nonprofit membership associations for eligible members of the Pennsylvania National Guard, subject to the following:

(1) For eligible members of the Pennsylvania National Guard, the Commonwealth shall pay premiums not otherwise paid by the Federal Government so that eligible members have life insurance coverage equal to the maximum available Servicemembers' Group Life Insurance coverage. Premium payments may take one of the following forms:

(i) Purchase of coverage under subsection (a) in an amount equal to the difference between:

(A) the maximum coverage under the Federal Servicemembers' Group Life Insurance program; and

(B) the amount of Servicemembers' Group Life Insurance coverage paid by the Federal Government.

(ii) Payment or reimbursement of the difference in premiums to the eligible members of the Pennsylvania National Guard.

(2) In the case of an eligible member of the Pennsylvania National Guard who was killed in the line of duty after September 11, 2001, and before the effective date of this subsection, the Commonwealth shall pay the designated beneficiary of the member or, if none, the member's next of kin an amount equal to the greater of the premiums paid for Servicemembers' Group Life Insurance coverage for the period the eligible member was deployed or, if the member did not elect the maximum coverage, the difference between the maximum coverage in effect at the time the eligible member was killed and the amount of coverage elected by the member.

(3) The department shall promulgate regulations for the administration of this subsection.

(c) Definition.--As used in this section, the term "eligible member of the Pennsylvania National Guard" shall mean:

(1) members of the Pennsylvania National Guard ordered to active Federal service for a period of 30 or more consecutive days while preparing to deploy, deployed and demobilizing from deployment, to areas or operations designated by the Secretary of Defense as "zones of combat" or "combat operations"; and

(2) members of the Pennsylvania National Guard ordered to active State duty for emergencies under section 508 (relating to active duty for emergency) or 35 Pa.C.S. § 7601 (relating to compact enacted) for a period of 30 or more consecutive days.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.; July 7, 2006, P.L.1046, No.105, eff. 60 days)

CHAPTER 32
MILITARY EDUCATIONAL PROGRAMS

Subchapter

A. Educational Assistance Program
A.1. Military Family Education Program
B. Medical Officer or Health Officer Incentive Program
C. Miscellaneous Provisions

Enactment. Chapter 32 was added June 19, 1996, P.L.344, No.56, effective July 1, 1996.

Chapter Heading. The heading of Chapter 32 was amended June 26, 2014, P.L.791, No.78, effective July 1, 2014.

Special Provisions in Appendix. See the preamble and section 3 of Act 56 of 1996 in the appendix to this title for special provisions relating to legislative findings and declarations and educational grants.

Cross References. Chapter 32 is referred to in section 7309 of this title.

SUBCHAPTER A
EDUCATIONAL ASSISTANCE PROGRAM

Sec.

3201. Definitions.
3202. Eligibility.
3203. Certification of eligibility.
3204. Grants.
3205. Amount of grants.
3206. Limitations.
3207. Recoupment of grant payments.
3208. (Reserved).
3209. Administration.
3210. Educational Assistance Program Fund.

Subchapter Heading. The heading of Subchapter A was added June 26, 2014, P.L.791, No.78, effective July 1, 2014.

Cross References. Subchapter A is referred to in section 3210.2 of this title.

§ 3201. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Higher Education Assistance Agency.

"Annual tuition rate." The in-State tuition rate, including a technology tuition fee, established or approved by May 1 of each year by the Board of Governors of the State System of Higher Education.

"Approved institution of higher learning." An educational institution offering a post-secondary program of education located in this Commonwealth and approved by the agency.

"Approved program of education." A degree-granting or certificate-granting curriculum, course of study or training program required for entrance into a specific career to be pursued on a full-time or part-time basis or its equivalent as determined by the agency, at an approved institution of higher learning.

"Certificate of eligibility." A certificate issued by the department that certifies a member's eligibility to receive an educational assistance grant.

"Combat zone." (Deleted by amendment).

"Costs of attendance." Allowable educational expenses, as determined by the agency, that are consistent with the administration of the act of January 25, 1966 (1965 P.L.1546, No.541), referred to as the Higher Education Scholarship Law.

"Department." (Deleted by amendment).

"Educational assistance." A benefit earned which shall be granted to an eligible member who has complied with all of the requirements provided for under this subchapter.

"Eligible member." A member of the Pennsylvania National Guard who meets the criteria specified in section 3202 (relating to eligibility) and who has been awarded a certificate of eligibility under section 3203 (relating to certification of eligibility).

"Full-time student." An eligible member enrolled in an approved institution of higher learning pursuing an approved program of education equal to or greater than 12 credit hours per semester or its equivalent that is recognized by the agency as a full-time course of study.

"Fund." The Educational Assistance Program Fund.

"Part-time student." An eligible member enrolled in an approved institution of higher education pursuing an approved program of education of less than 12 credit hours per semester or its equivalent that is recognized by the agency as a part-time course of study.

"Program." The Educational Assistance Program.

"Promissory note." A written contract signed by a member of the Pennsylvania National Guard in which the member promises to repay the awarded grant amount.

"Qualified resident." (Deleted by amendment).

"Technology tuition fee." A separate tuition fee established by the Board of Governors of the State System of Higher Education for rendering technology resources and services to enhance student learning experiences.

(May 10, 2000, P.L.36, No.11, eff. July 1, 2000; Nov. 30, 2004, P.L.1671, No.212, eff. 60 days; Dec. 22, 2005, P.L.441, No.82, eff. 60 days; June 26, 2014, P.L.791, No.78, eff. July 1, 2014; June 26, 2014, P.L.807, No.82, eff. 60 days; July 1, 2019, P.L.233, No.32, eff. imd.)

§ 3202. Eligibility.

(a) General rule.--A member of the Pennsylvania National Guard is eligible to receive an educational assistance grant under this subchapter if the member meets all of the following eligibility criteria:

(1) (Deleted by amendment).

(2) Except as otherwise provided in subsection (c) and section 3206(b) (relating to limitations), the member is a member in good standing and has been a satisfactory participant in Pennsylvania National Guard activities for a minimum service period established by the Adjutant General.

(3) The member has enrolled as a student in an approved program of education at an approved institution of higher learning.

(b) Additional eligibility criteria for full-time educational assistance grants.--In addition to the eligibility criteria specified in subsection (a), an eligible member must meet the following eligibility criteria to qualify for a full-time educational assistance grant:

(1) The member does not possess a baccalaureate degree.

(2) The member accepts an obligation to serve in the Pennsylvania National Guard for a period of six years and has not accepted an obligation under Subch. A.1 (relating to Military Family Education Program) for the same six-year period.

(3) The member has enrolled as a full-time student in an approved program of education at an approved institution of higher learning.

(4) The member is not receiving a Reserve Officer Training Corps (ROTC) Scholarship, excluding a Guaranteed Reserve Forces Duty Scholarship.

(c) Discharge for disability incurred in the line of duty.--A member who is discharged for medical disability after September 11, 2001, shall remain eligible to receive an educational assistance grant under this subchapter if the member meets all of the following eligibility criteria:

(1) The medical disability was incurred in the line of duty and was not the result of misconduct.

(2) The medical condition giving rise to the discharge did not exist prior to the member entering service in the Pennsylvania National Guard.

(3) The medical disability was incurred while performing authorized military duty other than basic training, advanced individual training or other equivalent initial training.

(4) The former member received an other than dishonorable discharge for medical reasons.

(5) The former member accepted an obligation to serve in the Pennsylvania National Guard and was qualified to fulfill the service obligation but for the medical disability that resulted in discharge.

(6) The former member commences a full-time or part-time course of study within two years of medical discharge or within two years of the effective date of this subsection, such course of study having a completion date of not more than six years following the date of medical discharge for members discharged for medical disability on or after the effective date of this subsection or of not more than six years following the effective date of this subsection for members discharged for a medical disability after September 11, 2001, and before the effective date of this subsection. The Adjutant General may for good cause extend these deadlines when the former member's disability is shown to require additional time for the former member to commence or complete a course of study.

(7) The former member meets all eligibility criteria specified in subsections (a) and (b) except membership in the Pennsylvania National Guard.

(May 10, 2000, P.L.36, No.11, eff. July 1, 2000; May 11, 2006, P.L.175, No.44, eff. imd.; June 26, 2014, P.L.791, No.78, eff. July 1, 2014; July 1, 2019, P.L.233, No.32, eff. imd.)

2019 Amendment. Act 32 amended subsecs. (a) intro. par., (b) and (c) intro. par., (4) and (5) and deleted subsec. (a)(1).

2014 Amendment. Act 78 amended subsecs. (a) and (c).

Cross References. Section 3202 is referred to in sections 3201, 3203, 3206 of this title.

§ 3203. Certification of eligibility.

The department shall certify members of the Pennsylvania National Guard as eligible to participate in the program who meet the eligibility criteria set forth in section 3202 (relating to eligibility) and shall provide the agency with a certificate of eligibility for an eligible member.

Cross References. Section 3203 is referred to in section 3201 of this title.

§ 3204. Grants.

(a) General rule.--From the funds appropriated for the purposes of this subchapter, grants shall be provided to eligible members for the purpose of pursuing approved programs of education. An educational assistance grant shall be treated as a benefit earned by an eligible member for honorable service to the country and this Commonwealth.

(b) Promissory notes.--Upon the receipt of the grant, an eligible member shall sign a promissory note obligating the eligible member to repay the full amount of the grant if the eligible member fails to fulfill the service obligation under section 3207(a) (relating to recoupment of grant payments). (June 26, 2014, P.L.791, No.78, eff. July 1, 2014; July 1, 2019, P.L.233, No.32, eff. imd.)

Cross References. Section 3204 is referred to in section 3207 of this title.

§ 3205. Amount of grants.

(a) Full-time educational assistance grants.--Grants awarded under this subchapter to full-time students shall be determined by the agency without regard to financial need and shall not exceed for each academic year the lesser of:

(1) the tuition rate of the approved institution of higher learning for the number of credit hours per semester or its equivalent for the approved program of education in which the eligible member is enrolled; or

(2) the annual tuition rate charged by a State System of Higher Education institution for the academic year.

(b) Part-time student assistance grants.-- Grants awarded under this subchapter to part-time students who may or may not possess a baccalaureate degree shall be determined by the agency without regard to financial need and shall not exceed for each academic year or period the lesser of:

(1) the tuition charged by the approved institution of higher learning for the number of credit hours per semester or its equivalent in which the eligible member is enrolled; or

(2) the annual tuition rate charged by a State System of Higher Education institution for the number of credit hours per semester or its equivalent in which the eligible member is enrolled for the same academic year or period.

(b.1) Part-time student assistance grants for stduents possessing baccalaureate degrees.--(Deleted by amendment).

(1) (Deleted by amendment).
(2) (Deleted by amendment).

(c) Other grants and financial aid.--

(1) The agency shall not reduce the amount of other agency grants or aid for which the eligible member qualifies on account of the eligible member's eligibility for or receipt of grants under this subchapter.

(2) Prior to making a grant under this subchapter, the approved institution of higher learning shall first consider any Federal tuition assistance received by the eligible member and then shall award a grant under this subchapter if the eligible member requires additional financial aid to cover the costs of attendance for an approved program of higher education. A grant under this subchapter shall be paid or refunded to the eligible member for approved costs of attendance. Grants authorized under this subchapter shall be reduced so that the total of all Federal and State military education benefits, as administered by the Pennsylvania National Guard, do not exceed 100% of the costs of attendance.

(d) Adjustments.--If the agency and the Adjutant General determine that the amount appropriated for the program in any year will be insufficient to provide grants in the amounts set forth in this section to all eligible members, the agency and the department may reduce the maximum amount of the grants proportionately or set a limit on the number of participants to ensure that sums expended do not exceed appropriations.

(e) Limit on charges.--Eligible members attending a State System of Higher Education institution shall not be charged additional tuition above the annual tuition rate.

(May 10, 2000, P.L.36, No.11, eff. July 1, 2000; July 7, 2006, P.L.598, No.87, eff. 60 days; June 26, 2014, P.L.791, No.78, eff. July 1, 2014; June 26, 2014, P.L.807, No.82, eff. 60 days; July 1, 2019, P.L.233, No.32, eff. imd.)

2019 Amendment. Act 32 amended subsecs. (a), (b) and (c), added subsec. (e) and deleted subsec. (b.1).

§ 3206. Limitations.

(a) Time.--

(1) Except as otherwise provided in paragraph (2), no eligible member shall be eligible for full-time or part-time educational assistance grants or a combination thereof under this subchapter for a total of more than five academic years or their equivalent as determined by the agency.

(2) An eligible member who withdraws from a program of education due to being ordered to serve on active duty for more than 30 consecutive days, including active duty for training, shall be granted an additional period of eligibility equal to the lost semester or its equivalent, whichever is longer.

(3) When an eligible member withdraws from a program of education as provided for under paragraph (2), the eligible member shall be granted an educational leave of absence as provided for under section 7313 (relating to educational leave of absence).

(b) Active duty.--

(1) Except as otherwise provided in paragraph (2) or (3), no grant payments shall be made under this subchapter except during the eligible member's term of service as a member in good standing of the Pennsylvania National Guard.

(2) For eligible members who were called or ordered to active Federal service or active State duty under section

508 (relating to active State duty for emergency) after September 11, 2001, the deadline for making grant payments shall be extended for one additional month for each month or part of month of such service after the eligible member is discharged or released under other than dishonorable conditions from the Pennsylvania National Guard.

(3) For eligible members discharged because of a disability incurred in the line of duty who are eligible under section 3202(c) (relating to eligibility), the deadline for making grant payments shall be:

(i) Six years after the eligible member's medical discharge for members discharged for a medical disability on or after the effective date of this paragraph unless extended under section 3202 (c)(6).

(ii) Six years following the effective date of this paragraph for eligible members discharged for a medical disability after September 11, 2001, and before the effective date of this paragraph unless extended under section 3202 (c)(6).

(c) Limit on tuition.--At no time may a State System of Higher Education institution charge an eligible member more than the in-State rate.

(Dec. 22, 2005, P.L.441, No.82, eff. 60 days; May 11, 2006, P.L.175, No.44, eff. imd.; June 26, 2014, P.L.791, No.78, eff. July 1, 2014; July 1, 2019, P.L.233, No.32, eff. imd.)

2019 Amendment. Act 32 amended subsecs. (a) and (b)(2) and (3) and added subsec. (c).

2014 Amendment. Act 78 amended subsecs. (a)(1) and (b)(1).

2006 Amendment. Act 44 amended subsec. (b). Section 3 of Act 44 provided that the amendment of subsec. (b) shall apply to grants awarded for any course of study commenced on or after May 1, 2006.

Cross References. Section 3206 is referred to in section 3202 of this title.

§ 3207. Recoupment of grant payments.

(a) General rule.--An eligible member who fails to meet the six-year service obligation of this subchapter or to meet other requirements established by the Adjutant General or the agency is liable to the Commonwealth for repayment of all or part of any grant payments made. The Adjutant General shall notify the agency if an eligible member fails to complete the service obligation, and the promissory note under section 3204(b) (relating to grants) shall be repaid by the eligible member upon demand by the agency on a schedule as the agency may determine.

(b) Forgiveness of recoupment.--The Adjutant General shall notify the agency and the agency shall forgive recoupment of all or part of an eligible member's grant payments if the Adjutant General determines that the eligible member's failure to fulfill the six-year service obligation was the result of one of the following:

(1) Death.

(2) Discharge because of disability incurred in line of duty.

(3) Discharge because of a medical determination that the eligible member is medically unfit for duty when the medical condition is outside the eligible member's control and is not due to the eligible member's misconduct.

(4) The existence of other compelling circumstances that warrant forgiveness.

(June 26, 2014, P.L.791, No.78, eff. July 1, 2014; July 1, 2019, P.L.233, No.32, eff. imd.)

Cross References. Section 3207 is referred to in section 3204 of this title.

§ 3208. (Reserved).

(July 1, 2019, P.L.233, No.32, eff. imd.)

§ 3209. Administration.

(a) Appropriation and administrative costs.--The General Assembly shall appropriate funds to pay full-time and part-time educational assistance grants under this subchapter. A portion of the funds appropriated may be used to pay the costs of the administration of this subchapter and Subchapter B (relating to Medical Officer or Health Officer Incentive Program).

(b) Limitation.--Administrative costs for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, shall not exceed 3.5% of the total amount of funds appropriated.

(June 26, 2014, P.L.791, No.78, eff. July 1, 2014; July 1, 2019, P.L.233, No.32, eff. imd.)

§ 3210. Educational Assistance Program Fund.

(a) Establishment.--The Educational Assistance Program Fund is established as a special nonlapsing fund in the State Treasury.

(b) Appropriation.--All money deposited into the fund and the interest the fund accrues are appropriated to the department on a continuing basis to be used for the purposes provided for under this subchapter and Subchapter B (relating to Medical Officer or Health Officer Incentive Program).

(c) Administrative action prohibited.--No administrative action shall prevent the deposit of money into the fund in the fiscal year in which the money is received.

(d) Use.--The fund may only be used for the purposes provided for under this subchapter and no money in the fund may be transferred or diverted to any other purpose by administrative action.

(Nov. 30, 2004, P.L.1671, No.212, eff. 60 days; July 1, 2019, P.L.233, No.32, eff. imd.)

SUBCHAPTER A.1
MILITARY FAMILY EDUCATION PROGRAM

Sec.

3210.1. Definitions.
3210.2. Eligibility.
3210.3. Certification of eligibility.
3210.4. Military Family Education Program grants.
3210.5. Amount of Military Family Education Program grants.
3210.6. Limitations.
3210.7. Recoupment of Military Family Education Program grant payments.
3210.8. (Reserved).
3210.9. Administration.
3210.10. Military Family Education Program Fund.

Enactment. Subchapter A.1 was added July 1, 2019, P.L.233, No.32, effective immediately unless otherwise noted.

Cross References. Subchapter A.1 is referred to in section 3202 of this title.

§ 3210.1. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Higher Education Assistance Agency.

"Annual tuition rate." The in-State tuition rate, including a technology tuition fee, established or approved by May 1 of each year by the Board of Governors of the State System of Higher Education.

"Approved institution of higher learning." An educational institution offering a postsecondary program of education located in this Commonwealth and approved by the agency.

"Approved program of education." A degree-granting or certificate-granting curriculum, course of study or training required for entrance into a specific career to be pursued on a full-time or part-time basis or its equivalent as determined by the agency, at an approved institution of higher learning.

"Benefit." The Military Family Education Program grant which shall be given to an eligible member's assigned family member who has complied with all of the requirements provided for under this subchapter.

"Certificate of eligibility." A certificate from the department that certifies a family member's eligibility for a Military Family Education Program grant.

"Costs of attendance." Allowable educational expenses, as determined by the agency, that are consistent with the administration of the act of January 25, 1966 (1965 P.L.1546, No.541), referred to as the Higher Education Scholarship Law.

"Eligible member." A member of the Pennsylvania National Guard who has completed an initial service obligation in the Pennsylvania National Guard and is eligible to reenlist in the Pennsylvania National Guard for a period of six years or, if a commissioned officer, is eligible to serve in the Pennsylvania National Guard for an additional six years.

"Family member." A dependent of an eligible member who is enrolled in the United States Department of Defense's Defense Enrollment Eligibility Reporting System or would be eligible to enroll in the Defense Enrollment Eligibility Reporting System if the eligible member had not been discharged from the Pennsylvania National Guard.

"Full-time student." A family member enrolled in an approved institution of higher learning pursuing an approved program of education equal to or greater than 12 credit hours per semester or its equivalent that is recognized by the agency as a full-time course of study.

"Fund." The Military Family Education Program Fund established under section 3210.10 (relating to Military Family Education Program Fund).

"Part-time student." A family member enrolled in an approved institution of higher education pursuing an approved program of education of less than 12 credit hours per semester or its equivalent that is recognized by the agency as a part-time course of study.

"Promissory note." A written contract signed by a member of the Pennsylvania National Guard in which the member promises to repay the awarded Military Family Education Program grant amount.

"Technology tuition fee." A separate tuition fee established by the Board of Governors of the State System of Higher Education for rendering technology resources and services to enhance student learning experiences.

§ 3210.2. Eligibility.

(a) General rule.--A family member is eligible to receive a Military Family Education Program grant under this subchapter if all of the following eligibility criteria are met:

(1) The eligible member from the Pennsylvania National Guard has been a satisfactory participant in the Pennsylvania National Guard activities for a minimum service period established by the Adjutant General or a former eligible member has received an other than dishonorable discharge.

(2) The eligible member accepted an obligation to serve in the Pennsylvania National Guard for a period of six years and has not accepted an obligation under Subchapter A (relating to Educational Assistance Program) for the same six-year period.

(3) The eligible member has assigned the benefit to the family member.

(4) The family member has enrolled as a student in an approved program of education at an approved institution of higher learning.

(5) If the family member is a spouse of an eligible member or former eligible member, then the spouse shall enroll in an approved program of education not more than six years after the eligible member or former eligible member's date of separation, medical discharge or death and the obligation stated under paragraph (2) has been fulfilled. The Adjutant General may for good cause extend the six-year deadline in cases of extenuating circumstances.

(6) When an eligible member is ordered to serve on active duty for more than 30 consecutive days, including active duty for training, a family member who is the spouse may withdraw from a program of education and shall be granted an educational leave of absence as provided for under section 7313 (relating to educational leave of absence).

(b) Discharge for disability incurred in the line of duty.--A family member of an eligible member who is discharged for medical disability shall remain eligible to receive a Military Family Education Program grant under this subchapter if the former eligible member's medical disability meets the following criteria:

(1) The medical disability was incurred in the line of duty and was not the result of misconduct.

(2) The medical condition giving rise to the discharge did not exist prior to the eligible member entering service in the Pennsylvania National Guard.

(3) The medical disability was incurred while performing authorized military duty other than basic training, advanced individual training or other equivalent initial training.

(4) The former eligible member received an other than dishonorable discharge for medical reasons.

(5) The former eligible member had accepted an obligation to serve in the Pennsylvania National Guard and was qualified to fulfill the service obligation but for the medical disability that resulted in discharge.

(c) Death of an eligible member.--A family member of an eligible member who died while serving the obligation required in subsection (a)(2) shall remain eligible to receive a Military Family Education Program grant under this subchapter if the deceased eligible member met the following eligibility criteria at the time of death:

(1) The deceased eligible member was eligible for an other than dishonorable discharge.

(2) The deceased eligible member had accepted an obligation to serve in the Pennsylvania National Guard and

was qualified to fulfill the service obligation but for the eligible member's death.

(3) Upon an eligible member's death, if the eligible member has not assigned the family member or family members to receive the Military Family Education Program grant as provided for under this subchapter, the surviving spouse or the administrator or executor of the estate shall designate the family member or family members to receive the Military Family Education Program grant.

Effective Date. Section 5(1) and (2) of Act 32 of 2019 provided that subsec. (a)(1) and (2) shall take effect July 1, 2019, subsec. (a)(3), (4) and (5) shall take effect August 1, 2020, and immediately as to the remainder of the section.

Cross References. Section 3210.2 is referred to in section 3210.7 of this title.

§ 3210.3. Certification of eligibility.

The department shall provide the agency with a certificate of eligibility for each eligible family member that applies for a Military Family Education Grant.

§ 3210.4. Military Family Education Program grants.

(a) General rule.--From the funds appropriated for the purposes of this subchapter, Military Family Education Program grants shall be provided to eligible family members for the purpose of pursuing an approved program of education. A Military Family Education Program grant shall be treated as a benefit earned by an eligible member for honorable service to the country and this Commonwealth.

(b) Promissory note.--Prior to entry into the Military Family Education Program the eligible member shall sign a promissory note obligating the eligible member to repay the full amount of the family member's Military Family Education Program grant if the eligible member fails to satisfactorily fulfill the eligible member's obligation. The promissory note shall become payable upon noncompletion of the service obligation under section 3210.7(a) (relating to recoupment of Military Family Education Program grant payments).

Cross References. Section 3210.4 is referred to in section 3210.7 of this title.

§ 3210.5. Amount of Military Family Education Program grants.

(a) Full-time Military Family Education Program grant.--Military Family Education Program grants awarded under this subchapter to full-time students shall be determined by the agency without regard to financial need and shall not exceed for each academic year the lesser of:

(1) the tuition rate of the approved institution of higher learning for the number of credit hours per semester or its equivalent for the approved program of education in which the family member is enrolled; or

(2) the annual tuition rate charged by a State System of Higher Education institution for the academic year.

(b) Part-time Military Family Education Program grants.--Military Family Education Program grants awarded under this subchapter to part-time students who may or may not possess a baccalaureate degree shall be determined by the agency without regard to financial need and shall not exceed for each academic year or period the lesser of:

(1) the tuition charged by the approved institution of higher learning for the number of credit hours per semester or its equivalent in which the family member is enrolled; or

(2) the annual tuition rate charged by a State System of Higher Education institution for the number of credit hours per semester or its equivalent in which the family member is enrolled for the same academic year or period.

(c) Other grants and financial aid.--

(1) The agency shall not reduce the amount of other agency grants or aid for which the family member qualifies on account of the family member's eligibility for or receipt of a Military Family Education Program grant under this subchapter.

(2) Prior to making a Military Family Education Program grant under this subchapter, the approved institution of higher learning shall first consider any Federal tuition assistance received by the family member and then shall award a Military Family Education Program grant under this subchapter if the family member requires additional financial aid to cover the costs of attendance for an approved program of higher education. A Military Family Education Program grant under this subchapter shall be paid or refunded to the family member for approved costs of attendance. Military Family Education Program grants authorized under this section shall be reduced so that the total of all Federal and State military education benefits, as administered by the Pennsylvania National Guard, does not exceed 100% of the costs of attendance.

(d) Adjustments.--If the agency and the Adjutant General determine that the amount appropriated for the Military Family Education Program in any year will be insufficient to provide Military Family Education Program grants in the amounts set forth in this section to all family members, the agency and the department may reduce the maximum amount of the Military Family Education Program grants proportionately or set a limit on the number of participants to ensure that sums expended do not exceed appropriations.

(e) Limit on charges.--Family members attending a State System of Higher Education institution shall not be charged additional tuition above the annual tuition rate.

(f) Limit on tuition.--At no time may a State System of Higher Education institution charge a family member more than the in-State rate.

§ 3210.6. Limitations.

(a) General rule.--No eligible member shall be permitted to assign more than five academic years or their equivalent, as determined by the agency.

(b) Assignment of benefit.--An eligible member may assign a portion of the entire benefit or the entire benefit by the number of credit hours per semester or its equivalent, as determined by the agency, to one or more family members, as the case may be.

§ 3210.7. Recoupment of Military Family Education Program grant payments.

(a) General rule.--An eligible member who fails to meet the six-year service obligation of this subchapter or to meet other requirements established by the Adjutant General or the agency is liable to the Commonwealth for repayment of all or part of Military Family Education Program grant payments made. The Adjutant General shall notify the agency if an eligible member fails to complete the service obligation and the promissory note under section 3210.4(b) (relating to Military Family Education Program grants) shall be repaid by the eligible member upon demand of the agency on a schedule as the agency may determine.

(b) Forgiveness of recoupment.--Upon notification by the Adjutant General, the agency shall forgive recoupment of all or part of a family member's Military Family Education Program grant payments if the Adjutant General determines that the eligible member's failure to fulfill the six-year service obligation is the result of one of the following:

(1) The eligible member's death. If all provisions in section 3210.2(c) (relating to eligibility) are not met, the Military Family Education Program grant shall be repaid by the family member or family members who used the benefit upon demand of the agency on a schedule as the agency may determine.

(2) The eligible member's discharge because of disability incurred in the line of duty.

(3) The eligible member's discharge because of a medical determination that the eligible member is medically unfit for duty when the medical condition is outside the eligible member's control and is not due to the eligible member's misconduct.

(4) The existence of other compelling circumstances that warrant forgiveness.

Cross References. Section 3210.7 is referred to in section 3210.4 of this title.

§ 3210.8. (Reserved).

§ 3210.9. Administration.

(a) Appropriation and administrative costs.--The General Assembly shall appropriate funds to pay full-time and part-time Military Family Education Program grants under this subchapter. A portion of the funds appropriated may be used to pay the costs of the administration of this subchapter.

(b) Limitation.--Administrative costs for the fiscal year in which the Military Family Education Program is enacted, and each fiscal year thereafter, shall not exceed 3.5% of the total amount of funds appropriated.

(c) Initial use of funds.--Initial funding for the first 12-month period from the effective date of this subchapter may be used for administration and development of technological support applications.

§ 3210.10. Military Family Education Program Fund.

(a) Establishment.--The Military Family Education Program Fund is established as a special nonlapsing fund in the State Treasury.

(b) Appropriation.--All money deposited into the fund and the interest the fund accrues are appropriated to the department on a continuing basis to be used for the purposes provided for under this subchapter.

(c) Administrative action prohibited.--No administrative action shall prevent the deposit of money into the fund in the fiscal year in which the money is received.

(d) Use.--The fund may only be used for the purposes provided for under this subchapter and no money in the fund may be transferred or diverted to any other purpose by administrative action.

Cross References. Section 3210.10 is referred to in section 3210.1 of this title.

SUBCHAPTER B
MEDICAL OFFICER OR HEALTH OFFICER INCENTIVE PROGRAM

Sec.

3211. Definitions.
3212. Establishment of program.
3213. Program stipend.
3214. Additional incentives.
3215. Promissory note.
3216. Recoupment of incentive payments.
3217. Adjustment of stipend amounts.

Enactment. Subchapter B was added June 26, 2014, P.L.791, No.78, effective July 1, 2014.

Cross References. Subchapter B is referred to in sections 3209, 3210, 3222 of this title.

§ 3211. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Behavioral health officer." An officer who:

(1) holds a license to practice psychology under the act of March 23, 1972 (P.L.136, No.52), known as the Professional Psychologists Practice Act, or is a licensed clinical social worker as defined in section 3 of the act of July 9, 1987 (P.L.220, No.39), known as the Social Workers, Marriage and Family Therapists and Professional Counselors Act;

(2) has malpractice insurance, is self-insured or maintains insurance through a private employer; and

(3) meets any applicable Federal requirements for the Pennsylvania National Guard.

"Medical officer or health officer." An officer who is any of the following:

(1) A resident physician.

(2) A physician.

(3) A physician assistant.

(4) A behavioral health officer.

(5) A public health officer or environmental science officer.

"Member in good standing." A member of the Pennsylvania National Guard who meets all medical, training, physical and educational requirements for service and who is a satisfactory participant in all scheduled duties and training periods.

"Physician." An officer assigned to and serving in an authorized Army Medical Corps or Air Force Medical Corps position who:

(1) has completed a medicine residency program; and

(2) is currently practicing medicine in the United States or its territories.

"Physician assistant." An officer who:

(1) is licensed as a physician assistant under the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985; and

(2) meets any applicable Federal requirements for the Pennsylvania National Guard.

"Program." The Medical Officer or Health Officer Incentive Program.

"Public health officer" or "environmental science officer." An officer who holds a minimum of a bachelor's degree from an educational program accredited by an agency recognized by the United States Secretary of Education in an environmental science related field of study, including any of the following majors or their equivalent:

(1) Environmental science, environmental health or environmental management.
(2) Occupational health.
(3) Industrial hygiene.
(4) Public health.
(5) Sanitary science or epidemiology.
(6) Biology, chemistry, toxicology, geology, microbiology, biochemistry or zoology.

"Resident physician." An officer who:
(1) is assigned to a medical position in the Pennsylvania National Guard;
(2) is a medical doctor or doctor of osteopathy participating in graduate training;
(3) holds a license to practice medicine under the Medical Practice Act of 1985; and
(4) meets any applicable Federal requirements for the Pennsylvania National Guard.

§ 3212. Establishment of program.

The Medical Officer or Health Officer Incentive Program is established within the department to provide educational stipends to eligible medical officers or health officers in accordance with the provisions of this subchapter.

§ 3213. Program stipend.

(a) General rule.--
(1) A resident physician, physician or physician assistant who meets the requirements under subsection (c) may receive a stipend of $1,000 per month for no more than 48 months of medicine residency or the first 36 accession months of service to the Pennsylvania National Guard.
(2) A behavioral health officer, public health officer or environmental science officer who meets the requirements under subsection (c) may receive a stipend of $500 per month for no more than the first 36 accession months of service to the Pennsylvania National Guard.

(b) Areas of concentration.--An area of concentration qualification for a medical or health officer must be approved by the National Guard Bureau through a predetermination request completed by the Pennsylvania Army National Guard Army Medical Department Officer Strength Manager.

(c) Requirements.--In order to qualify for a stipend under subsection (a), a medical officer or health officer shall meet all of the following:
(1) Be a member in good standing with the Pennsylvania National Guard.
(2) Be assigned to an appropriate medical or health position in the Pennsylvania National Guard.
(3) Agree to serve as a medical officer or health officer in the Pennsylvania National Guard after completion of residency or initial service obligation for a period of one month for each monthly stipend received. This service obligation shall be concurrent with any other military service obligation of the officer.

(d) Receipt of stipend.--A stipend under subsection (a) shall be paid to an eligible medical officer or health officer whose application for the stipend is approved at the completion of each month of residency or service. A medical officer or health officer may not receive a stipend under subsection (a) for more than 48 months during the period of service in the Pennsylvania National Guard.

(e) Adjustments.--If the Adjutant General determines that the amount available for the program in any year will be insufficient to provide stipends in the amount described under

subsection (a), the Adjutant General may place a cap on the number of medical officers or health officers eligible to receive stipends or may adjust the amount of the annual stipend.

(f) Construction.--Nothing in this section shall be construed to prohibit a medical officer or health officer who is serving in the Pennsylvania National Guard before the effective date of this section and who meets the requirements under subsection (c) from receiving a stipend under subsection (a) during the period of medicine residency or service.

Cross References. Section 3213 is referred to in section 3214 of this title.

§ 3214. Additional incentives.

To the extent that funds are available, the Adjutant General may, by regulation, establish additional incentives to aid in the recruitment and retention of medical officers or health officers in the Pennsylvania National Guard, provided that payment of such additional incentives shall not result in a cap on participation or reduction in the amount of stipends paid under section 3213 (relating to program stipend).

§ 3215. Promissory note.

Any recipient of a stipend or other incentive payment under this subchapter shall sign, as part of the application for the incentive payment, a promissory note in a form prescribed by the Adjutant General by which the recipient promises to repay all amounts received if the recipient fails to complete the service obligation required by this subchapter or to meet other requirements established by the Adjutant General.

Cross References. Section 3215 is referred to in section 3216 of this title.

§ 3216. Recoupment of incentive payments.

(a) General rule.--A recipient of a stipend or other incentive payment under this subchapter who fails to complete his service obligation or to meet other requirements established by the Adjutant General is liable to the Commonwealth for repayment of all incentive payments made. The Adjutant General shall notify the department if the recipient fails to complete the service obligation, and the promissory note under section 3215 (relating to promissory note) shall be called to secure payment in full upon demand on a schedule as the department may determine.

(b) Forgiveness of recoupment.--The Adjutant General may forgive recoupment of all or part of a recipient's stipend or other incentive payment if the Adjutant General determines that his failure to fulfill the service obligation was the result of his death, discharge because of disability incurred in line of duty, discharge because of a medical determination that he is medically unfit for duty when the medical condition is outside his control and is not due to his misconduct, mandatory discharge, release or retirement for age or years of service or discharge, release, transfer or retirement because of other compelling circumstances outside his control.

§ 3217. Adjustment of stipend amounts.

Beginning on January 1, 2016, and every two years thereafter, the Adjutant General may adjust, by notice published in the Pennsylvania Bulletin, the amounts of the stipends set forth in this subchapter by an amount equal to the change in the applicable Consumer Price Index in the preceding two years provided that the Adjutant General finds sufficient funds are appropriated and available to pay for the adjusted stipends.

SUBCHAPTER C
MISCELLANEOUS PROVISIONS

Sec.
3221. Regulations.
3222. Administration.

Enactment. Subchapter C was added June 26, 2014, P.L.791, No.78, effective July 1, 2014.

§ 3221. Regulations.

The Adjutant General shall promulgate regulations to carry out the provisions of this chapter.

§ 3222. Administration.

The General Assembly may appropriate funds to pay for grants under Subchapter B (relating to Medical Officer or Health Officer Incentive Program).

CHAPTER 33
PENNSYLVANIA GUARD

Sec.
3301. Pay and expenses of officers and enlisted personnel.
3302. Uniforms, arms and equipment.
3303. Pennsylvania National Guard laws generally to apply.

Enactment. Chapter 33 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 3301. Pay and expenses of officers and enlisted personnel.

(a) Armory drills.--All officers and enlisted personnel will receive pay for armory assemblies not to exceed 60 assembly days in any one year. The rate of pay shall be in accordance with the corresponding grades and length of service of the current Armed Forces Pay and Allowance Act. An assembly shall consist of at least four hours of training.

(b) Active State service.--In the event of a calling of all or any part of the Pennsylvania Guard into active State service, the pay and transportation of officers and enlisted personnel shall be on the same basis as provided for similar grades under the current Armed Forces Pay and Allowance Act.

(c) Annual training.--The Governor is further authorized to provide an annual training period for the Pennsylvania Guard, not to exceed 30 days in any one year, during which period the pay, allowances and transportation of officers and enlisted personnel shall be on the same basis as provided for similar grades in the current Armed Forces Pay and Allowance Act. (Oct. 4, 1978, P.L.909, No.173, eff. 60 days)

1978 Amendment. Act 173 amended subsec. (c).

§ 3302. Uniforms, arms and equipment.

The Governor is authorized to requisition from the Department of Defense such uniforms, arms and equipment as may be available for use of the Pennsylvania Guard as may be authorized by the Congress of the United States to be made available to the Pennsylvania Guard. In the event uniforms and equipment are not available from the Federal Government for the use of the Pennsylvania Guard, the Governor shall cause to be provided such uniforms, arms and equipment as may be necessary for the efficient functioning and operation of the Pennsylvania Guard.

§ 3303. Pennsylvania National Guard laws generally to apply.

All laws or sections of laws of this Commonwealth pertaining to the Pennsylvania National Guard shall be applicable and shall govern the Pennsylvania Guard except as modified or changed by the provisions of this chapter.

CHAPTER 35
DISABILITY RELIEF AND PENSIONS

Sec.

3501. Relief for disability incurred in active State service.
3502. Deceased soldier's dependents' pension.
3503. Tuition waiver for children and spouses of deceased soldiers.

Enactment. Chapter 35 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 3501. Relief for disability incurred in active State service.

(a) General rule.--If any member of the Pennsylvania National Guard is injured or otherwise disabled, or dies as a result of injuries or other disability received or contracted while performing duty in active service of the Commonwealth or in the performance of other State military duty under competent order or authority, or while engaged in volunteer service during a civil emergency at the request of competent military authority, he or his dependents, if not compensated therefor by the government of the United States, shall receive from the Commonwealth just and reasonable relief, the amount of compensation to be determined in accordance with the Workmen's Compensation Law of Pennsylvania. The General Assembly shall appropriate the moneys necessary to provide for such compensation.

(b) Computation of average weekly wage.--In the computation of average weekly wage for purposes of compensating a member of the Pennsylvania National Guard or his beneficiaries, "wages" shall include all earnings during the period used for such computation received from employment in the member's usual occupation.

(Oct. 4, 1978, P.L.909, No.173, eff. 60 days)

References in Text. The short title of the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, referred to in subsec. (a), was amended by the act of July 2, 1993, P.L.190, No.44. The amended short title is now the Workers' Compensation Act.

Cross References. Section 3501 is referred to in section 3502 of this title.

§ 3502. Deceased soldier's dependents' pension.

(a) Amount and persons entitled.--A pension may be paid to either the widow or widower or minor children or dependent parent of any member of the Pennsylvania National Guard, who may die from injuries received, or who may be killed while in active service, under orders of the Governor, which active service shall include participation in armory assemblies or participation in aerial flights incidental to training. Such pension shall be computed on the following basis and distributed to the following persons monthly:

(1) To each minor child, if there is no widow or widower entitled to compensation, $75, with $50 for each child in excess of two, with a maximum of $200 to be paid to their guardian.

(2) To the widow or widower, if there are no children, $100.

(3) To the widow or widower, if there is one child, $150.

(4) To the widow or widower, if there are two children, $200.

(5) To the widow or widower, if there are three children, $250.

(6) To the widow or widower, if there are four or more children, $300.

(7) To the father and mother, if there is no widow, widower, or children, if dependent to any extent upon the member for support at the time of his death, $100.

(b) Workmen's compensation.--Such pension shall be in addition to any relief in the form of compensation determined under the Workmen's Compensation Law of Pennsylvania as authorized by section 3501 (relating to relief for disability incurred in active State service).

(c) Claims.--All claims for pension under this section shall be made to the department, which shall establish rules governing the filing of such claims. The department shall investigate all circumstances connected with the death of the person and make a recommendation to the Adjutant General as to the granting of a pension. If a pension is granted, it shall be paid monthly in the manner provided by law.

(d) Term and removal.--No pension granted under this section shall be granted for a longer period than ten years; but in the case of minor children of a deceased member, the pension shall be paid until the minor child reaches 18 years of age.

(e) Revocation.--The department shall have power to revoke any pension granted under this section when it shall be shown to the satisfaction of the department that the pensioner is no longer in a state of dependency.

(f) Exemption.--The provisions of this section shall not apply to any member of the Pennsylvania National Guard while in the service of the United States, in case of war, or under the orders of the President of the United States.

(g) Appropriation.--The necessary appropriation to pay any pensions granted under this section shall, at each regular session of the General Assembly, be included in the items pertaining to the department, in the act of Assembly providing for the ordinary expenses of the Executive, Judicial, and Legislative Departments of the Commonwealth.

(Dec. 18, 1980, P.L.1245, No.225, eff. imd.)

References in Text. The short title of the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, referred to in subsec. (b), was amended by the act of July 2, 1993, P.L.190, No.44. The amended short title is now the Workers' Compensation Act.

§ 3503. Tuition waiver for children and spouses of deceased soldiers.

(a) Children.--The children of members of the Pennsylvania National Guard who were killed or die as a result of injuries received while performing duty in an official duty status authorized under Federal or State law shall be entitled to a waiver of all tuition costs and fees remaining after receipt of other scholarships and education benefits and Federal and State grants, including, but not limited to, educational gratuities for which the children are or may be eligible under the act of December 16, 1998 (P.L.980, No.129), known as the Police Officer, Firefighter, Correction Employee and National

Guard Member Child Beneficiary Education Act, at all Pennsylvania State-owned colleges or universities, approved trade schools, State-related institutions of higher learning or community colleges in this Commonwealth for a period not exceeding eight semesters or four years, whichever is greater. In order to be eligible for waiver of tuition and fees under this section, the member of the Pennsylvania National Guard must have been a bona fide resident of Pennsylvania at the time of his death, and the member's children must be bona fide residents of Pennsylvania, eligible for resident tuition at the institution to which they have applied, at the time they apply for the tuition and fee waiver.

(a.1) Spouses.--The spouse of a member of the Pennsylvania National Guard who was killed or dies as a result of injuries received while performing duty in an official duty status authorized under Federal or State law shall be entitled to a waiver of all tuition costs and fees remaining after receipt of other scholarships and education benefits and Federal and State grants at any Pennsylvania State-owned college or university, approved trade school, State-related institution of higher learning or community college in this Commonwealth for a period not exceeding eight semesters or four years, whichever is greater. A spouse shall be eligible for a waiver of all tuition costs and fees remaining after receipt of other scholarships and education benefits and Federal and State grants under this subsection for a period not to exceed ten years from the date the member is killed or dies as a result of injuries while in Federal or State active duty or until the spouse remarries, whichever occurs first. In order to be eligible for waiver of tuition and fees under this section, the member of the Pennsylvania National Guard must have been a bona fide resident of Pennsylvania at the time of his death, and the member's spouse must be a bona fide resident of Pennsylvania, eligible for resident tuition at the institution to which the spouse has applied, at the time the spouse applies for the tuition and fee waiver.

(b) Department to administer program.--The department shall adopt rules and regulations to carry out the provisions of this section and shall administer the tuition cost and fee waiver program established under this section.

(Dec. 18, 1980, P.L.1245, No.225, eff. imd.; July 7, 2006, P.L.1046, No.105, eff. 60 days)

CHAPTER 37
DECORATIONS, MEDALS, BADGES AND AWARDS

Sec.

3701. Authorized decorations, medals, badges and awards.
3702. Specifications.
3703. Wearing of military insignia by municipal employees.
3704. Saving provision.
3705. Furnishing United States flag for deceased members.

Enactment. Chapter 37 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 3701. Authorized decorations, medals, badges and awards.

(a) General rule.--The following decorations, medals, badges and awards are authorized to be presented by the Governor in the name of the Commonwealth:

(1) Pennsylvania Cross for Valor.
(2) Pennsylvania Distinguished Service Medal.

(3) Pennsylvania Meritorious Service Medal.
(4) Pennsylvania Commendation Medal.
(4.1) Pennsylvania Achievement Medal.
(5) State Medal for Federal Service during any war.
(6) Pennsylvania Service Ribbon or Medal for active State service during an emergency.
(7) Pennsylvania Twenty Year Service Medal.
(8) Major General Thomas R. White, Jr. Medal.
(9) General Thomas J. Stewart Medal.
(10) Pennsylvania Outstanding Aeronautical Achievement Award.
(11) Marksmanship Medals or Badges.
(12) Pennsylvania Veterans Service Award.

(b) Method of award.--The following decorations, medals, badges and awards will be awarded under the following conditions:

(1) The Pennsylvania Cross for Valor shall be awarded by the Governor to members of the Pennsylvania National Guard, Pennsylvania Guard or the armed forces of the United States or their reserve components for acts of bravery or valor above the ordinary gallantry of other members of the services.

(2) The Pennsylvania Distinguished Service Medal shall be awarded by the Governor to civilians, veterans and members of the Pennsylvania National Guard, Pennsylvania Guard or armed forces of the United States or their reserve components in recognition of meritorious service beyond the normal dictates of duty to this Commonwealth.

(3) The Pennsylvania Meritorious Service Medal shall be awarded by the Governor to civilians, veterans and members of the Pennsylvania National Guard, Pennsylvania Guard or the armed forces of the United States or their reserve components in recognition of meritorious service rendered this Commonwealth and while holding a position of great responsibility or who provide meritorious service to veterans and their families on behalf of this Commonwealth.

(4) The qualifications for awarding the Pennsylvania Commendation Medal, the Pennsylvania Achievement Medal, the Pennsylvania Veterans Service Award, the State Medal for Federal Service during any war, the Service Ribbon or Medal for active State service during an emergency, the Pennsylvania Twenty Year Service Medal, the Major General Thomas R. White, Jr. Medal, the General Thomas J. Stewart Medal, the Pennsylvania Outstanding Aeronautical Achievement Award, and the Marksmanship Medals or Badges, shall be prescribed by the Adjutant General by regulation or guideline.

(5) The Adjutant General is empowered to establish such other decorations, medals, badges and awards as he may prescribe by regulation or guideline.

(c) Recommendations for medals.--All recommendations for decorations, medals, badges and awards, except those of the Governor, must be forwarded to the Governor through the department.

(Nov. 29, 2017, P.L.1182, No.56, eff. 60 days)

§ 3702. Specifications.

The Adjutant General shall prescribe the detailed specifications and design for said decorations, medals, badges and awards, and is authorized to procure those items in the prescribed manner. The Adjutant General shall issue appropriate rules, regulations and guidelines for the wearing of said

decorations, medals, badges and awards in accordance with the customs and traditions of the Pennsylvania National Guard.
(Nov. 29, 2017, P.L.1182, No.56, eff. 60 days)

§ 3703. Wearing of military insignia by municipal employees.

It is unlawful for any official of the Commonwealth or any political subdivision thereof to forbid or prohibit by ordinance, rule, or regulation the wearing, by any of its employees or agents, of any service bar or insignia provided or authorized by the Federal Government, indicating military service in any war, upon any part of the uniform worn by them as employees or agents of the political subdivision.

§ 3704. Saving provision.

Nothing in this chapter shall be construed as to invalidate or repeal any decorations, medals, badges or awards heretofore presented.

§ 3705. Furnishing United States flag for deceased members.

(a) General rule.--The department shall furnish a United States flag to drape the casket of each deceased member who at the time of death was:

(1) An active member of the Pennsylvania National Guard or the Pennsylvania Guard.

(2) A retired member of the Pennsylvania National Guard or the Pennsylvania Guard.

(3) Discharged from the Pennsylvania National Guard or the Pennsylvania Guard for a disability incurred or aggravated in the line of duty.

(b) Exception.--Any member eligible for a burial flag under the provisions of 38 United States Code § 901 (relating to flags) is not authorized to receive the United States flag under the provisions of this section.

(c) Appropriation for cost.--The necessary appropriations to pay for any flags issued under this section shall, at each regular session of the General Assembly, be included in the items pertaining to the department, in the act of Assembly providing for the ordinary expenses of the Executive, Judicial and Legislative Departments of the Commonwealth.
(Sept. 28, 1978, P.L.802, No.155, eff. 60 days)

1978 Amendment. Act 155 added section 3705.

SUBPART D
RIGHTS AND IMMUNITIES

Chapter

41. Rights and Immunities

CHAPTER 41
RIGHTS AND IMMUNITIES

Sec.

4101. Equality of treatment and opportunity for members.
4102. Leaves of absence for certain government employees.
4103. Exemption of uniforms and equipment.
4104. Exemption from arrest.
4105. Exemption from civil process.
4106. Exemptions from further military service and jury duty.
4107. Legal aid.
4108. Liability of Commonwealth for judgments against personnel on State duty.
4109. Child custody proceedings during military deployment.

4110. Expedited or electronic hearing.

Enactment. Chapter 41 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Cross References. Chapter 41 is referred to in section 702 of this title.

§ 4101. Equality of treatment and opportunity for members.

It is hereby declared to be the policy of this Commonwealth that there shall be equality of treatment and opportunity for all persons in the Pennsylvania National Guard and the Pennsylvania Guard, without regard to race, creed, color, national origin or sex. Such policy shall be put into effect giving due regard to the powers of the Federal Government which are or may be exercised over the Pennsylvania National Guard and to the time required to effectuate changes without impairing the efficiency or morale of the Pennsylvania National Guard.

§ 4102. Leaves of absence for certain government employees.

(a) Mandatory.--

(1) The following shall apply to paid military leaves of absence:

(i) All officers and employees of the Commonwealth, its political subdivisions or their instrumentalities shall be entitled to paid military leaves of absence from their respective duties without loss of pay or efficiency rating, and without being required to use annual vacation time, as follows:

(A) On all days during which they shall, as members of the Pennsylvania National Guard, be engaged in active State duty under section 508 (relating to active duty for emergency).

(B) On all days not exceeding 15 consecutive or nonconsecutive days in any one year during which they shall, as members of the Pennsylvania National Guard or as members of any reserve component of the armed forces of the United States, be engaged in training or other military duty under orders authorized by Federal or State law.

(ii) All officers and employees of the Commonwealth or its instrumentalities, except for officers and employees of political subdivisions and their instrumentalities, shall be entitled to up to 15 days of paid military leave in addition to the leave under subparagraph (i) in any one year if the officers and employees are ordered to active duty, other than active duty for training, and all of the following apply:

(A) The duty is ordered for a period of at least 30 consecutive days.

(B) The duty is involuntary or is performed in a zone of combat, in response to a domestic emergency or pursuant to a contingency operations service agreement.

(C) The duty is performed while the member is deployed at least 50 miles away from both the member's home duty station and place of residence.

(D) The duty is ordered under 10 U.S.C. § 12301 (relating to Reserve components generally), 12302 (relating to Ready Reserve) or 12304 (relating to Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency) or 32 U.S.C. § 502(f) (relating to required drills and field exercises).

(2) All officers and employees of the Commonwealth, a political subdivision, or their instrumentalities shall, in addition to the leave provided under this subsection, be entitled to unpaid military leave of absence, up to the maximum cumulative period authorized by 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services), from their respective duties without loss of seniority or efficiency rating and without being required to use annual vacation time on all days during which:

(i) they are engaged in training or other military duty under orders authorized by Federal or State law; and

(ii) they are not on paid military leave of absence.

(b) Discretionary leave.--The Commonwealth, its instrumentalities and political subdivisions and their instrumentalities shall be authorized and permitted to provide paid military leave or other compensation and/or continue medical and other benefits to members of the Pennsylvania National Guard and other reserve components of the United States Armed Forces for days in excess of those provided in subsection (a) when the member shall be engaged in training or other military duty under orders authorized by Federal or State law.

(c) Calculation of leave.--

(1) An employee who is on paid or unpaid military leave for a period encompassing one entire calendar day shall be charged with one day's military leave on each workday notwithstanding the number of hours encompassed in the employee's workday. An employee on paid military leave shall be paid for the leave based on the compensation due for the leave period.

(2) An employee who is on paid or unpaid military leave of absence for a shift that extends into two consecutive calendar days shall be charged with only one day of military leave if the employee returns to work for the next regular shift.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.; Nov. 1, 2005, P.L.327, No.62, eff. imd.; Nov. 9, 2006, P.L.1383, No.150, eff. 60 days; Nov. 1, 2013, P.L.667, No.80, eff. imd.)

2006 Amendment. Section 2 of Act 150 provided that Act 150 shall be retroactive to January 1, 2005, for officers and employees who did not qualify under subsec. (a)(2) as amended by Act 62 of 2005 and shall apply prospectively for all other officers and employees.

2005 Amendment. Section 3 of Act 62 provided that Act 62 shall be retroactive to January 1, 2005.

Cross References. Section 4102 is referred to in sections 8102, 8302, 8506 of Title 24 (Education); sections 5102, 5302, 5902, 5906 of Title 71 (State Government).

§ 4103. Exemption of uniforms and equipment.

The uniform and accoutrements of every commissioned officer and enlisted person shall be free from all suits, distresses, executions or sales for debt or payment of taxes.

(Oct. 4, 1978, P.L.909, No.173, eff. 60 days)

Cross References. Section 4103 is referred to in section 8124 of Title 42 (Judiciary and Judicial Procedure).

§ 4104. Exemption from arrest.

No officer or enlisted person shall be arrested on any warrant, except for treason or felony, while going to, remaining

at, or returning from, a place where he is ordered to attend for military duty.

§ 4105. Exemption from civil process.

No civil process shall issue or be enforced against any officer or enlisted person of the Pennsylvania National Guard in the active service of the Commonwealth during so much of the term as he shall be engaged in active service under orders nor until 30 days after he shall have been relieved therefrom. The operation of all statutes of limitations and presumptions arising from lapse of time shall be suspended upon all claims by or against such officer or enlisted person during the aforesaid period.

Cross References. Section 4105 is referred to in section 5343 of Title 30 (Fish); section 7331 of Title 75 (Vehicles).

§ 4106. Exemptions from further military service and jury duty.

In addition to the exemptions now allowed by law, any person who shall have performed duty in the Pennsylvania National Guard for a period of nine years or who served for nine months or a longer period in active service of the United States and was honorably discharged or mustered out, shall be exempt from further military service, except in case of war, invasion or insurrection. Every officer and enlisted person of the Pennsylvania National Guard shall be exempt from jury duty during the period of his active service.

§ 4107. Legal aid.

Members of the Pennsylvania Military Forces on State duty shall receive legal assistance from the Commonwealth for any charge of criminal or civil liability resulting from their duty. The assistance shall be limited to members acting under lawful orders or on good faith reliance on an order which a reasonable person would consider to be lawful under the circumstances. No assistance shall be provided by the Commonwealth when the Pennsylvania National Guard is called into the service of the United States.

§ 4108. Liability of Commonwealth for judgments against personnel on State duty.

The Commonwealth of Pennsylvania shall be responsible for the payment of all judgments and costs secured against a member of the Pennsylvania Military Forces on State duty who was acting under lawful orders or who in good faith relied on an order which a reasonable person would consider to be lawful under the circumstances.

§ 4109. Child custody proceedings during military deployment.

(a) Restriction on change of custody.--If a petition for change of custody of a child of an eligible servicemember is filed with any court in this Commonwealth while the eligible servicemember is deployed in support of a contingency operation, no court may enter an order modifying or amending any previous judgment or order, or issue a new order, that changes the custody arrangement for that child that existed as of the date of the deployment of the eligible servicemember, except that a court may enter a temporary custody order if it is in the best interest of the child.

(a.1) Temporary assignment to family members.--If an eligible servicemember has received notice of deployment in support of a contingency operation, a court may issue a temporary order to an eligible servicemember who has rights to a child under 23 Pa.C.S. § 5323 (relating to award of custody) or former 23 Pa.C.S. Ch. 53 Subch. A (relating to general provisions), including a temporary order to temporarily assign custody rights to family members of the servicemember. In the

case of temporary assignment of rights to family members of the servicemember, the following shall apply:

(1) The servicemember may petition the court for a temporary order to temporarily assign custody rights to family members of the servicemember. The servicemember shall be joined in the petition by the family members to whom the servicemember is seeking to assign temporary custody rights. The petition shall include a proposed revised custody schedule for care of the child by the family members. The proposed revised custody schedule may not include custody rights which exceed the rights granted to a servicemember set forth in the order in effect at the time of the filing of the petition to grant temporary custody rights to family members.

(2) The court may issue a temporary order with a revised custody schedule as proposed by the servicemember and the family members or another revised custody schedule as the court deems appropriate, if the court finds that a temporary assignment of custody rights to family members of the servicemember is in the best interest of the child. In no case shall a temporary order granting custody rights to the family members of a servicemember exceed the custody rights granted to the servicemember set forth in the order in effect at the time of the filing of the petition to assign temporary custody rights to family members.

In the case of any other temporary order issued under this subsection, the court may issue a temporary order if it is in the best interest of the child.

(b) Completion of deployment.--In any temporary custody order entered under subsection (a) or (a.1), a court shall require that, upon the return of the eligible servicemember from deployment in support of a contingency operation, the custody order that was in effect immediately preceding the date of the deployment of the eligible servicemember is reinstated.

(c) Exclusion of military service from determination of child's best interest.--If a petition for the change of custody of the child of an eligible servicemember who was deployed in support of a contingency operation is filed after the end of the deployment, no court may consider the absence of the eligible servicemember by reason of that deployment in determining the best interest of the child.

(d) Failure to appear due to military deployment.--The failure of an eligible servicemember to appear in court due to deployment in support of a contingency operation shall not, in and of itself, be sufficient to justify a modification of a custody order if the reason for the failure to appear is the eligible servicemember's active duty in support of a contingency operation.

(e) Relationship to other laws.--Notwithstanding any other provision of law, the provisions of this section shall be applied with regard to child custody issues related to eligible servicemembers deployed in support of contingency operations.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Contingency operation." A military operation that:

(1) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force; or

(2) results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. § 688 (relating to retired members: authority to order to active duty; duties), 12301(a) (relating to reserve components generally), 12302 (relating to Ready Reserve), 12304 (relating to Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency), 12305 (relating to authority of President to suspend certain laws relating to promotion, retirement, and separation) or 12406 (relating to National Guard in Federal service: call) or any other provision of 10 U.S.C. during a war or during a national emergency declared by the President or Congress.

"Eligible servicemember." A member of the Pennsylvania National Guard or a member of an active or reserve component of the Armed Forces of the United States who is serving on active duty, other than active duty for training, for a period of 30 or more consecutive days, in support of a contingency operation.

"Family members." As defined in 23 Pa.C.S. § 6303 (relating to definitions).

(Oct. 9, 2008, P.L.1522, No.127, eff. 60 days; Apr. 12, 2012, P.L.241, No.32, eff. 60 days)

Cross References. Section 4109 is referred to in section 4110 of this title; section 5338 of Title 23 (Domestic Relations).

§ 4110. Expedited or electronic hearing.

(a) Expedited hearing.--Upon motion of an eligible servicemember who has received notice of deployment in support of a contingency operation, the court shall, for good cause shown, hold an expedited hearing in custody matters instituted under section 4109 (relating to child custody proceedings during military deployment) when the military duties of the eligible servicemember have a material effect on the eligible servicemember's ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

(b) Electronic hearing.--Upon motion of an eligible servicemember who has received notice of deployment in support of a contingency operation, the court shall, upon reasonable advance notice and for good cause shown, allow the eligible servicemember to present testimony and evidence by electronic means in custody matters instituted under section 4109 when the military duties of the eligible servicemember have a material effect on the eligible servicemember's ability to appear in person at a regularly scheduled hearing.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Contingency operation." As defined in section 4109 (relating to child custody proceedings during military deployment).

"Electronic means." Includes communication by telephone, video conference or the Internet.

"Eligible servicemember." As defined in section 4109 (relating to child custody proceedings during military deployment).

"Matter." As defined in 42 Pa.C.S. § 102 (relating to definitions).

(Apr. 12, 2012, P.L.241, No.32, eff. 60 days)

2012 Amendment. Act 32 added section 4110.

PART III
INTERSTATE RELATIONS

Chapter
45. Interstate Compact
47. Fresh Pursuit by Military Forces

Enactment. Part III was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

CHAPTER 45
INTERSTATE COMPACT

Sec.
4501. Interstate compact for mutual military aid.

Enactment. Chapter 45 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.
Cross References. Chapter 45 is referred to in section 508 of this title.

§ 4501. Interstate compact for mutual military aid.

The Commonwealth of Pennsylvania does hereby join, approve and become a party to a solemn compact with the State of New Jersey and the State of New York and any other state concurring therein or otherwise approving thereof, in form and terms as heretofore agreed to by the Governor of the State of New Jersey and the Governor of the State of New York and approved by the respective Legislatures thereof, as follows:

An Interstate Compact For Mutual Military Aid
In An Emergency.

Article I

(1) The purposes of this compact are:
(a) To provide for mutual military aid and assistance, in an emergency, by the military forces of a signatory state to the military forces of the other signatory states or of the United States, including, among other, military missions, the protection of interstate bridges, tunnels, ferries, pipelines, communications, facilities, and other vital installations, plants and facilities, and the military support of civil defense agencies.
(b) To provide for the fresh pursuit, in case of an emergency, by the military forces or any part or member thereof of a signatory state into another state, of insurrectionists, saboteurs, enemies or enemy forces, or persons seeking or appearing to seek to overthrow the government of the United States or of a signatory state.
(c) To make provision for the powers, duties, rights, privileges and immunities of the members of the military forces of a signatory state while so engaged outside of their own state.
(2) (a) "Emergency," as used in this compact, shall mean and include invasion or other hostile action, disaster, insurrection, or imminent danger thereof.
(b) "State," as used in this compact, shall include any signatory state.

(c) "Military forces," as used in this compact, shall include the organized militia or any force thereof of a signatory state.

Article II

This compact shall become effective as to the signatory states when the Legislatures thereof have approved it and when the Congress has given its consent either before or after the date hereof. Any state not a party to this compact at the date hereof may become a party hereto.

Article III

The Governor of each signatory state, or his designated military representative, shall constitute the Committee for Mutual Military Aid for signatory states. It shall be the duty of the Committee for Mutual Military Aid to make joint plans for the employment of the military forces of the signatory states for mutual military aid and assistance in case of emergency.

Article IV

(1) It shall be the duty of each signatory state to integrate its plan for the employment of its military forces, in case of emergency, with the joint plans recommended by the Committee for Mutual Military Aid and with the emergency plans of the armed forces of the United States.

(2) In case of emergency, upon request of the Governor of a signatory state, the Governor of each signatory state, to the extent consistent with the needs of his own state, shall order its military forces, or such part thereof as he in his discretion may find necessary, to assist the military forces of the requesting state, in order to carry out the purposes set forth in this compact. In such case, it shall be the duty of the Governor of each signatory state receiving such a request to issue the necessary orders for such use of the military forces of his state without the borders of his state, and to direct the commander of such forces to place them under the operational control of the commander of the forces of the requesting state or of the United States which may be engaged in meeting the emergency.

(3) The Governor of any signatory state, in his discretion, may recall the military forces of his state serving without its borders or any part of any member of such forces.

Article V

In case of an emergency, any unit or member of the military forces of a signatory state which has been ordered into active service by the Governor may, upon order of the officer in immediate command thereof, continue beyond the borders of his own state into another signatory state in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces, or persons seeking or appearing to seek to overthrow the government of the United States or of any one of the signatory states, until they are apprehended by such unit or member. Any such person who shall be apprehended or captured in a signatory state by a unit or member of the military forces of another signatory state shall, without unnecessary delay, be surrendered to the military or police forces of the state in which he is taken or to the

forces of the United States. Such surrender shall not constitute a waiver by the state of the military forces making the capture of its right to extradite or prosecute such persons for any crime committed in that state.

Article VI

(1) Whenever the military forces or any part thereof of any signatory state are engaged outside of their own state in carrying out the purposes of the compact, the individual members of such military forces so engaged shall not be liable civilly or criminally for any act or acts done by them in the performance of their duty.

(2) The individual members of such forces shall have the same powers, duties, rights, privileges and immunities as the members of the military forces of the state in which they are engaged, but in any event,

(3) Each signatory state shall save harmless any member of its military forces wherever serving, and any member of the military forces of any other signatory state serving within its borders, for any act or acts done by them in the performance of their duty while engaged in carrying out the purposes of this compact.

Article VII

(1) Each signatory state shall provide, in the same amounts and manner as if they were on duty within their own state, for the pay and allowances of the personnel of its military forces, and for the medical and hospital expenses, disability and death benefits, pensions and funeral expenses, of wounded, injured or sick personnel, and of dependents or representatives of deceased personnel of its military forces, in case such personnel shall suffer wounds, injuries, disease, disability or death while engaged without the state pursuant to this compact and while going to and returning from such other signatory state. Each signatory state shall provide, in the same amounts and manner as if they were on duty within their own state, for the logistical support and for other costs and expenses of its military forces while engaged without the State pursuant to this compact and while going to and returning from such other signatory state.

(2) Any signatory state rendering outside aid in case of insurrection or disaster not the result of invasion or hostile action shall, if it so elects, be reimbursed by the signatory state receiving such aid for the pay and allowances of its personnel, logistical support, and all other costs and expenses referred to in section one of this article and incurred in connection with the request for aid. Such election shall be exercised by the Governor of the aiding state presenting a statement and request for reimbursement of such costs and expenses to the Governor of the requesting state.

Article VIII

Nothing in this compact shall be construed to limit or restrict the power of any signatory state, in case of an emergency affecting that state only, to provide for the internal defense of any part of the territory of said state, or for the protection and control of any bridge, tunnel, ferry, installation, plant or facility, or any part thereof, within the borders of such state, or to prohibit the enforcement of

any laws, rules and regulations, or the execution of any plan with regard thereto.

Article IX

This compact shall continue in force and remain binding on each signatory state until the Legislature or the Governor of such state gives notice of withdrawal therefrom. Such notice of withdrawal shall not be effective until six months after said notice has been given to the Governor of each of the other signatory states.

CHAPTER 47
FRESH PURSUIT BY MILITARY FORCES

Sec.

4701. Fresh pursuit by Commonwealth forces.
4702. Fresh pursuit by forces of other states.

Enactment. Chapter 47 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 4701. Fresh pursuit by Commonwealth forces.

(a) General rule.--No military forces of this Commonwealth, other than the Pennsylvania National Guard, shall be required to serve outside the boundaries of this Commonwealth, except that any organization, unit or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this Commonwealth into another state until they are apprehended or captured by such organization, unit or detachment, or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, provided such other state shall have given authority by law for such pursuit by such forces of the Commonwealth.

(b) Surrender of prisoner by Commonwealth forces.--Any such person who shall be apprehended or captured in such other state by an organization, unit or detachment of the forces of this Commonwealth, shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this State of its right to extradite or prosecute such person for any crime committed in this Commonwealth.

§ 4702. Fresh pursuit by forces of other states.

(a) General rule.--Any military forces, or organization, unit or detachment thereof, of another state, who are in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces, may continue such pursuit into this Commonwealth until the military or police forces of this Commonwealth or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, and are hereby authorized to arrest or capture such persons within this Commonwealth while in fresh pursuit.

(b) Surrender of prisoner to Commonwealth forces.--Any such person who shall be captured or arrested by the military forces of such other state while in this Commonwealth, shall, without unnecessary delay, be surrendered to the military or police forces of this Commonwealth, to be dealt with according to law.

(c) Construction of section.--This section shall not be construed so as to make unlawful any arrest in this Commonwealth which would otherwise be lawful.

PART IV
MILITARY JUSTICE

Chapter

51. General Provisions
52. Apprehension and Restraint
53. Nonjudicial Punishment
54. Courts-martial Jurisdiction
55. Appointment and Composition of Courts-martial
56. Pretrial Procedure
57. Trial Procedure
58. Sentences
59. Posttrial Procedure and Review of Courts-martial
60. Punitive Sections
61. Miscellaneous Provisions

Enactment. Part IV was added August 1, 1975, P.L.185, No.91, effective January 1, 1976.

Prior Actions. Section 3 of Act 192 of 2012 provided that all actions initiated or commenced under the provisions of Part IV before the effective date of section 3 shall proceed to conclusion following the law and procedures in effect on the date the action was initiated or commenced.

CHAPTER 51
GENERAL PROVISIONS

Sec.

5100. Short title of part (Repealed).
5101. Short title of part.
5102. Definitions.
5103. Persons subject to part.
5104. Subject matter jurisdiction.
5105. Jurisdiction to try certain personnel.
5106. Dismissal of commissioned officer.
5107. Territorial applicability.
5108. Judge advocates and legal officers.

Enactment. Chapter 51 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions. Former Chapter 51, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5100. Short title of part (Repealed).

2012 Repeal. Section 5100 was repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5101. Short title of part.

This part shall be known and may be cited as the Pennsylvania Code of Military Justice.

§ 5102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when

used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accuser." A person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another or any other person who has an interest other than an official interest in the prosecution of the accused.

"Adjutant General." The Adjutant General of the Commonwealth of Pennsylvania.

"Cadet," "candidate" or "midshipman." A person who is enrolled in or attending a State military academy, a regional training institute or any other formal education program for the purpose of becoming a commissioned or warrant officer in the State military forces.

"Classified information." Any of the following:

(1) Information or material that has been determined by an official of the United States or any state pursuant to law, an executive order or regulation to require protection against unauthorized disclosure for reasons of national or State security.

(2) Restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (68 Stat. 921, 42 U.S.C. § 2014(y)).

"Commanding officer" or **"commander."** The Adjutant General and other commissioned officers of the State military forces when exercising command over a unit or element. The term includes officers in charge only when administering nonjudicial punishment under section 5301 (relating to commanding officer's nonjudicial punishment).

"Convening authority." Includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command.

"Day" or **"calendar day."** Any punishment authorized by this part, which is measured in terms of days, shall, when served in a status other than annual field training, be construed to mean succeeding duty days. The term is not synonymous with the term "unit training assembly."

"Department." The Department of Military and Veterans Affairs of the Commonwealth.

"Duty status other than State active duty." Any other type of duty under an order issued by authority of law not in Federal service and not full-time duty in the active service of the State. The term includes travel to and from the duty.

"Enemy." An organization, entity or individual who engages in combat or hostilities against the State military forces or attacks or threatens to attack the United States or this Commonwealth.

"Enlisted member." A person in an enlisted grade.

"Fatigue duties." Duties, including, but not limited to, cleaning real property and facilities, kitchen duties and disposal of refuse duties which are not within the day-to-day duties of a member of the State military forces.

"Grade." A step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

"Judge advocate." A commissioned officer of the State military forces who is a member in good standing of the bar of the Supreme Court and is:

(1) certified or designated as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy or Marine Corps or designated as a law specialist as an officer of the Coast Guard or a reserve component of one of these; or

(2) certified as a nonfederally recognized judge advocate, under regulations promulgated under this paragraph, by the State Judge Advocate, as competent to perform such military justice duties required by this part. If the State Judge Advocate is not available, the certification may be made by the senior judge advocate or the commander of another force in the State military forces, as the convening authority directs.

"May." Is used in a permissive sense. The phrase "no person may....." means that no person is required, authorized or permitted to do the act prescribed.

"Military court." A court-martial or a court of inquiry.

"Military judge." An official of a general or special court-martial detailed in accordance with section 5505 (relating to military judge of a general or special court-martial).

"Military offenses." Those offenses described under Chapter 60 (relating to punitive sections) which are military in nature and for which there are no analogous criminal offenses described in any other law of this Commonwealth.

"National security." The national defense and foreign relations of the United States.

"Nonmilitary offenses." Those offenses described under Chapter 60 (relating to punitive sections) for which there are one or more analogous criminal offenses described in any other law of this Commonwealth.

"Record." When used in connection with the proceedings of a court-martial, any of the following:

(1) An official written transcript, written summary or other writing relating to the proceedings.

(2) An official audiotape, videotape, digital image or file or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.

"Senior force commander." The commander of the same force of the State military forces as the accused.

"Shall." Is used in an imperative sense.

"State." One of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam or the Virgin Islands.

"State active duty." Full-time duty in the State military forces under an order of the Governor or otherwise issued by authority of law and paid by State funds. The term includes travel to and from such duty for an emergency ordered under section 508 (relating to active duty for emergency) and special State duty ordered under section 1415 of the act of April 29, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"State Judge Advocate." The judge advocate designated as responsible for supervising the administration of the military justice in the State military forces. He shall be the military staff judge advocate to the Governor and the Adjutant General.

"State military forces." Any military force of the Commonwealth not in a status subjecting it to the exclusive jurisdiction of the United States. The term shall include militia when ordered into actual service for emergency under section 507 (relating to draft from militia for emergency) and the Pennsylvania National Guard.

"Superior commissioned officer." A commissioned officer superior in rank and command.

"War." A period of armed conflict declared a war by the Congress of the United States or recognized by the Adjutant General as a war by virtue of a declaration of national emergency and authorization by Congress.

Cross References. Section 5102 is referred to in section 5506 of this title.

§ 5103. Persons subject to part.

This part applies to all members of the State military forces who are not in a Federal status under which they are subject to the Uniform Code of Military Justice (64 Stat. 109, 10 U.S.C. § 801 et seq.).

§ 5104. Subject matter jurisdiction.

(a) General rule.--Subject matter jurisdiction is established if a nexus exists between an offense and the State military forces.

(b) Military offenses.--Courts-martial have primary jurisdiction of military offenses as defined in this part.

(c) Nonmilitary offenses.--A civilian court has primary jurisdiction of a nonmilitary offense when an act or omission violates both this part and criminal law. In such a case, a court-martial may be initiated only after the civilian authority has declined to prosecute or has dismissed the charge, provided jeopardy has not attached.

(d) Inchoate offenses.--Jurisdiction over inchoate offenses, including the offenses of attempt, conspiracy and solicitation, is given to the entity which has jurisdiction of the underlying offense.

Cross References. Section 5104 is referred to in sections 5107, 6045 of this title.

§ 5105. Jurisdiction to try certain personnel.

(a) Discharge obtained fraudulently.--Each person subject to this part discharged from the State military forces who is later charged with having fraudulently obtained a discharge shall be, subject to section 5708 (relating to statute of limitations), subject to trial by court-martial on said charge and shall after apprehension be subject to this part while in custody under the direction of the State military forces for that trial. Upon conviction of said charge, the person shall be subject to trial by court-martial for all offenses under this part committed before the fraudulent discharge.

(b) Deserters.--No person subject to this part who has deserted from the State military forces shall be relieved from amenability to the jurisdiction of this part by virtue of a separation from any subsequent period of service.

§ 5106. Dismissal of commissioned officer.

(a) Court-martial proceedings.--Any commissioned officer subject to this part dismissed by order of the Governor may make a written application for trial by court-martial, setting forth, under oath, that the officer has been wrongfully dismissed. In such event, the Governor, as soon as practicable, shall convene a general court-martial to try such officer on the charges on which the officer was dismissed. A court-martial so convened shall have jurisdiction to try the dismissed officer on such charge, and the officer shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which the officer is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but, if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

(b) Failure to convene court-martial.--If the Governor fails to convene a general court-martial within six months from the

presentation of an application for trial under this section, the Adjutant General shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

§ 5107. Territorial applicability.

(a) General rule.--This part has applicability at all times and in all places, provided that the person accused is subject to this part and subject matter jurisdiction is established under section 5104 (relating to subject matter jurisdiction).

(b) Location of proceedings.--Courts-martial and courts of inquiry may be convened and held in units of the State military forces while those units are serving outside this Commonwealth with the same jurisdiction and powers as to persons subject to this part as if the proceedings were held inside this Commonwealth, and persons subject to this part accused of committing offenses outside this Commonwealth shall be subject to trial and punishment either inside or outside this Commonwealth.

§ 5108. Judge advocates and legal officers.

(a) Appointment of State Judge Advocate.--The Governor, on the recommendation of the Adjutant General, shall appoint a judge advocate officer of the State military forces as the State Judge Advocate. To be eligible for appointment, such officer shall have been a member of the bar of the Supreme Court for at least five years.

(b) Field inspections.--The State Judge Advocate and the judge advocates of the State military forces or their delegates shall make frequent inspections in the field in supervision of the administration of military justice.

(c) Direct communication.--Convening authorities shall at all times communicate directly with their judge advocates in matters relating to the administration of military justice. The judge advocate of any command is entitled to communicate directly with the judge advocate of a superior or subordinate command or with the State Judge Advocate.

(d) Disqualification in case.--No person who has acted as a member, military judge, trial counsel, defense counsel or investigating officer, or who has been a witness, in any case may later act as a judge advocate to any reviewing authority upon the same case.

CHAPTER 52
APPREHENSION AND RESTRAINT

Sec.

5201. Apprehension.
5202. Apprehension of persons absent without leave.
5203. Imposition of restraint.
5204. Restraint of persons charged with offenses.
5205. Place of confinement.
5206. Reports and receiving of prisoners.
5207. Punishment prohibited before trial.
5208. Delivery of offenders to civil authorities.
5209. Confinement with enemy prisoners prohibited.

Enactment. Chapter 52 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 52, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5201. Apprehension.

(a) Persons authorized to apprehend.--Any person authorized by this part, by 10 U.S.C. Ch. 47 (relating to Uniform Code of Military Justice) or by regulations issued under:

(1) any marshal of a court-martial appointed under the provisions of this part; or

(2) any peace officer or civil officer authorized by law, may apprehend persons subject to this part upon probable cause that an offense under this part has been committed and that the person apprehended committed it.

(b) Authority of officers.--Commissioned officers, warrant officers, petty officers and noncommissioned officers have authority to quell quarrels, frays and disorders among persons subject to this part and to apprehend persons subject to this part who take part therein.

(c) Apprehension outside Commonwealth.--If a person subject to this part is apprehended outside this Commonwealth, the person's return to this Commonwealth must be in accordance with normal extradition procedures or by reciprocal agreement.

(d) Payment prohibited.--No person authorized by this section to apprehend persons subject to this part, or place where such offender is confined, restrained, held or otherwise housed may require payment of any fee or charge for receiving, apprehending, confining, restraining, holding or otherwise housing a person except as otherwise provided by law.

(e) Warrant authority.--The convening authority of any court-martial shall have the power to issue warrants of apprehension directed to the sheriff or any constable or peace officer of a county to apprehend persons subject to this part charged with an offense under this part and to deliver such persons into the custody of the State military forces.

(f) Definition.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Apprehension." The taking of a person subject to this part into custody.

§ 5202. Apprehension of persons absent without leave.

Any civil officer having authority to apprehend offenders under the laws of the United States or of this Commonwealth, or any military officer subject to this part who has been authorized by the Governor by regulation, may summarily apprehend any person subject to this part absent without leave from the State military forces and deliver him into the custody of the State military forces.

§ 5203. Imposition of restraint.

(a) Enlisted personnel.--An enlisted person subject to this part may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this part or through any person authorized by this part to apprehend persons. A commanding officer may authorize warrant officers, petty officers or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(b) Commissioned officers and warrant officers.--A commissioned officer or a warrant officer subject to this part may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(c) Probable cause.--No person subject to this part may be ordered into arrest or confinement except for probable cause.

(d) Construction of section.--This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Arrest." The restraint of a person subject to this part by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits.

"Confinement." The physical restraint of a person subject to this part.

§ 5204. Restraint of persons charged with offenses.

(a) General rule.--Any person subject to this part charged with an offense under this part may be ordered into arrest or confinement. When any person subject to this part is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform the person of the specific wrong of which the person is accused, and diligent steps shall be taken to try the person or to dismiss the charges and release the person.

(b) Admission to bail.--The accused, if apprehended or ordered into confinement prior to or during trial by a military court, may be admitted to bail by the officer exercising special court-martial jurisdiction over the accused, by a superior commanding officer or by the Adjutant General.

§ 5205. Place of confinement.

Persons subject to this part confined before, during or after trial by a military court shall be confined in a civilian or military confinement facility.

Cross References. Section 5205 is referred to in section 5206 of this title.

§ 5206. Reports and receiving of prisoners.

(a) Duty to receive prisoner.--Unless otherwise authorized by law, no facility authorized to receive prisoners under section 5205 (relating to place of confinement) may refuse to receive or keep any prisoner subject to this part and committed to the facility's charge by a commissioned officer of the State military forces when the officer furnishes a statement, signed by the officer, of the offense charged against the prisoner.

(b) Report of commitment.--Every facility authorized to receive prisoners under section 5205 to whose charge a prisoner subject to this part is committed shall, within 24 hours after that commitment, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner and the name of the person who ordered or authorized the commitment. If the facility receiving and holding a prisoner is unable to contact the prisoner's commanding officer, the facility shall make the report to the office of Adjutant General at the Joint Force Headquarters.

§ 5207. Punishment prohibited before trial.

Subject to section 5804 (relating to effective date of sentence), no person subject to this part while being held for trial or the result of trial may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against the person, nor shall the arrest or confinement imposed upon the person be any more rigorous than the circumstances required to insure the person's presence. The person may be subjected to minor punishment during that period for infractions of discipline.

§ 5208. Delivery of offenders to civil authorities.

(a) General rule.--Under such regulations as may be prescribed under this part, a person subject to this part accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial or confinement.

(b) Effect on sentence of court-martial.--When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial. The offender, after having answered to the civil authorities for his offense, shall, upon the request of competent military authority, be returned to the place of original custody for the completion of such sentence of the court-martial.

§ 5209. Confinement with enemy prisoners prohibited.

No member of the State military forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals who are not members of the armed forces.

CHAPTER 53
NONJUDICIAL PUNISHMENT

Sec.

5301. Commanding officer's nonjudicial punishment.

Enactment. Chapter 53 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 53, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5301. Commanding officer's nonjudicial punishment.

(a) General rule.--Under such regulations as the Governor may prescribe, any commanding officer or officer-in-charge may impose disciplinary punishments for minor offenses without the intervention of a court-martial. The Governor, the Adjutant General or a general officer or colonel in command may delegate the powers under this section to a principal assistant who is a member of the State military forces.

(b) Punishments by any commanding officer.--Any commanding officer may impose upon enlisted members of the officer's command any of the following disciplinary punishments:

(1) An admonition.

(2) A reprimand.

(3) The withholding of privileges for not more than six months, which need not be consecutive.

(4) The forfeiture of pay of not more than seven days' pay.

(5) A fine of not more than seven days' pay or $200, whichever is less.

(6) A reduction to the next inferior pay grade if the grade from which the enlisted member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the officer imposing the reduction.

(7) Extra duties, including fatigue or other duties, for not more than 14 days, which need not be consecutive.

(8) Restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.

(c) Punishments by major or lieutenant commander and other officers.--Any commanding officer of the rank of major or lieutenant commander or above may impose upon enlisted members of the officer's command any of the following disciplinary punishments:

(1) Any punishment authorized in subsection (b)(1), (2) and (3).

(2) The forfeiture of not more than one-half of one month's pay per month for two months.

(3) A fine of not more than one month's pay or $500, whichever is less.

(4) A reduction to the lowest or any intermediate pay grade if the grade from which the enlisted member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the officer imposing the reduction. An enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.

(5) Extra duties, including fatigue or other duties, for not more than 45 days which need not be consecutive.

(6) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.

(d) Punishments by the Governor, Adjutant General and high officers.--The Governor, the Adjutant General, an officer exercising general court-martial convening authority or an officer of a general or flag rank in command may impose any of the following disciplinary punishments:

(1) Upon officers:

(i) Any punishment authorized in subsection (c)(1), (2), (3) and (6).

(ii) Arrest in quarters for not more than 30 days, which need not be consecutive.

(2) Upon enlisted members, any punishment authorized in subsection (c).

(e) Limits for consecutive punishments.--Whenever any punishments authorized under this section are combined to run consecutively, the total length of the combined punishment shall not exceed the authorized duration of the highest punishment the Governor, Adjutant General or officer may impose. Punishments must be apportioned so that no single punishment exceeds its authorized length under this section.

(f) Preliminary requirements.--Prior to the offer of nonjudicial punishment, the commanding officer shall determine whether arrest in quarters or restriction shall be considered as punishments. Should the commanding officer determine that the punishment options may include arrest in quarters or restriction, the accused shall be notified of the right to demand trial by court-martial. Should the commanding officer determine that the punishment options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by court-martial in lieu of nonjudicial punishment.

(g) Reduction of penalty.--The officer who imposes the punishment, or the successor in command, may at any time suspend, set aside, mitigate or remit any part or amount of the punishment and restore all rights, privileges and property affected. The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the mitigated punishment. The officer also may:

(1) Mitigate reduction in grade to forfeiture of pay.
(2) Mitigate arrest in quarters to restriction.
(3) Mitigate extra duties to restriction.

(h) Appeal from punishment.--A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority within 15 days after the punishment is announced or sent to the person. The appeal shall be promptly forwarded and decided. While awaiting a decision, the person appealing the punishment may be required to begin to serve the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (g) by the officer who imposed the punishment. Before acting on an appeal of a punishment, the superior authority may refer the case to a judge advocate for consideration and advice.

(i) Additional proceedings.--The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(j) Application of forfeiture.--Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing before, on or after the date that punishment is imposed.

(k) Records of proceedings.--The form of records to be kept of proceedings under this section may be prescribed by regulations adopted by the department. The regulations may prescribe that certain categories of the proceedings be in writing.

(l) Restrictions.--When punishment has been imposed under this section for an offense, nonjudicial punishment may not again be imposed for the same offense. Once nonjudicial punishment has been imposed, it may not be increased upon appeal or otherwise. When a commander determines that nonjudicial punishment is appropriate for a particular service member, all known offenses determined to be appropriate for disposition by nonjudicial punishment and ready to be considered at that time, including all offenses arising from a single incident or course of conduct, will ordinarily be considered together and not made the basis for multiple punishments. This subsection does not restrict the commander's right to prefer court-martial charges for a nonminor offense previously punished under the provisions of this section.

Cross References. Section 5301 is referred to in sections 5102, 5708 of this title.

CHAPTER 54
COURTS-MARTIAL JURISDICTION

Sec.

5401. Courts-martial classified.
5402. Jurisdiction of courts-martial in general.
5403. Jurisdiction of general courts-martial.
5404. Jurisdiction of special courts-martial.

5405. Jurisdiction of summary courts-martial.
5406. Sentences of dismissal, dishonorable discharge or bad conduct to be approved by Governor.
5407. Record of proceedings.
5408. Confinement instead of fine (Repealed).

Enactment. Chapter 54 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 54, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5401. Courts-martial classified.

The three kinds of courts-martial in the State military forces are:

(1) General courts-martial, consisting of:

(i) a military judge and not less than five members; or

(ii) only a military judge if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves.

(2) Special courts-martial, consisting of:

(i) a military judge and not less than three members; or

(ii) only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in paragraph (1)(ii) so requests.

(3) Summary courts-martial, consisting of one commissioned officer.

Cross References. Section 5401 is referred to in sections 5508, 5706 of this title.

§ 5402. Jurisdiction of courts-martial in general.

Each force of the State military forces has court-martial jurisdiction over all members of the force who are subject to this part. The Pennsylvania National Guard has court-martial jurisdiction over all members subject to this part.

Cross References. Section 5402 is referred to in sections 5403, 5404, 5405 of this title.

§ 5403. Jurisdiction of general courts-martial.

Subject to section 5402 (relating to jurisdiction of courts-martial in general), general courts-martial have jurisdiction to try persons subject to this part for any offense made punishable by this part and may, under such limitations as the Governor may prescribe, adjudge any punishment not prohibited by this part including any of the following punishments:

(1) A fine of not more than $10,000.

(2) Confinement for not more than five years.

(3) Forfeiture of all pay and allowances for a period not exceeding five years.

(4) Dismissal, dishonorable discharge or bad-conduct discharge.

(5) Reduction of an enlisted member to any lower enlisted grade.

(6) A reprimand.

(7) Any combination of these punishments.

§ 5404. Jurisdiction of special courts-martial.

Subject to section 5402 (relating to jurisdiction of courts-martial in general), special courts-martial shall have jurisdiction to try persons subject to this part for any offense made punishable by this part and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

(1) A fine of not more than $2,500.

(2) Confinement for not more than one year.

(3) Forfeiture of all pay and allowances for a period not exceeding one year.

(4) A bad-conduct discharge.

(5) Reduction of an enlisted member to any lower enlisted grade.

(6) A reprimand.

(7) Any combination of these punishments.

§ 5405. Jurisdiction of summary courts-martial.

(a) General rule.--Subject to section 5402 (relating to jurisdiction of courts-martial in general), summary courts-martial shall have jurisdiction to try all persons subject to this part, except officers, cadets, candidates and midshipmen, for any offense made punishable by this part and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

(1) A fine of not more than $500.

(2) Confinement for not more than ten days.

(3) Restriction to specified limits for no more than two months.

(4) Forfeiture of not more than two-thirds of pay for a period not exceeding one month.

(5) Reduction to the next lower grade.

(b) Objection to summary court-martial.--No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if the person objects thereto. If objection to trial by summary court-martial is made by an accused, trial shall be ordered by special or general court-martial, as may be appropriate.

§ 5406. Sentences of dismissal, dishonorable discharge or bad conduct to be approved by Governor.

In the State military forces, no sentence of dismissal, dishonorable discharge or bad-conduct discharge shall be executed until it is approved by the Governor.

Cross References. Section 5406 is referred to in section 6111 of this title.

§ 5407. Record of proceedings.

A complete written record of proceedings and testimony shall be made for any general court-martial under this part. A bad-conduct discharge may not be adjudged by any special court-martial unless a complete written record of the proceedings and testimony before the court has been made.

§ 5408. Confinement instead of fine (Repealed).

2012 Repeal. Section 5408 was repealed October 24, 2012, P.L.1506, No.192, effective in one year.

CHAPTER 55
APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

Sec.

5501. Who may convene general courts-martial.
5502. Who may convene special courts-martial.
5503. Who may convene summary courts-martial.
5504. Who may serve on courts-martial.
5505. Military judge of a general or special court-martial.
5506. Appointment of trial counsel and defense counsel.
5507. Detail or employment of reporters and interpreters.
5508. Absent and additional members.

Enactment. Chapter 55 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 55, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5501. Who may convene general courts-martial.

(a) General rule.--General courts-martial may be convened by any of the following:

(1) The Governor.

(2) The Adjutant General.

(3) A deputy adjutant general authorized by a regulation of the Governor.

(4) The commanding general of a division.

(5) The general officer in command of a wing.

(b) Commanding officer as accuser.--When a commanding officer is an accuser, the court shall be convened by superior competent authority and may, in any case, be convened by such authority when deemed desirable by such authority.

§ 5502. Who may convene special courts-martial.

(a) General rule.--Special courts-martial may be convened by any of the following:

(1) Any person who may convene a general court-martial.

(2) The commanding officer of a garrison, fort, post, camp, station, Pennsylvania National Guard base or station.

(3) The commanding officer of a brigade, regiment or corresponding unit of the Army.

(4) The commanding officer of a group or corresponding unit of the Air Force.

(5) The commanding officer or officer in charge of any other command when authorized by the Adjutant General.

§ 5503. Who may convene summary courts-martial.

(a) General rule.--Summary courts-martial may be convened by any of the following:

(1) Any person who may convene a general or special court-martial.

(2) The commanding officer of a company, a detached company or other detachment or corresponding unit of the Army.

(3) The commanding officer of a squadron, a detached squadron or other detachment or corresponding unit of the Air Force.

(4) The commanding officer or officer in charge of any other command when authorized by the Adjutant General.

(b) Commissioned officer or superior authority.--When only one commissioned officer is present with a command or detachment, that officer shall preside over the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him, provided that the officer is not the accuser or a witness. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by such authority.

§ 5504. Who may serve on courts-martial.

(a) Commissioned officer.--Any commissioned officer of the State military forces who is not a member of the same unit as the accused is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Warrant officer.--Any warrant officer 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 person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) Enlisted member.--Any 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 such courts for trial. The member shall serve as a member of a court only if, prior to the conclusion of a session called by the military judge under section 5704 (relating to sessions), or prior to trial, or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused has requested orally on the record or in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial, the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be assembled and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(d) Ineligible persons.--

(1) Except in exigent circumstances, no person subject to this part may be tried by a court-martial any member of which is junior to him in rank or grade.

(2) When convening a court-martial, the convening authority shall detail as members thereof such members of the State military forces as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service and judicial temperament. No member of the State military forces is eligible to serve as a member of a general or special court-martial when that member is the accuser or a witness or has acted as investigating officer or as counsel in the same case.

(e) Excuse.--Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. The convening authority may delegate the authority under this subsection to a judge advocate or to any other principal assistant.

(f) Definition.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Unit." Any regularly organized body of the State military forces not larger than a company or a squadron or a body corresponding to one of them.

§ 5505. Military judge of a general or special court-martial.

(a) General rule.--A military judge shall be detailed to each general and special court-martial. The military judge shall preside over each open session of the court-martial to which the military judge has been detailed.

(b) Eligibility.--A military judge shall be:

(1) a judge advocate in the grade of lieutenant colonel or above in the State military forces, a federally recognized judge advocate of the National Guard of another state, a judge advocate of the armed forces of the United States or a retired judge advocate of the State military forces in the grade of lieutenant colonel or above who retired no more than ten years prior to the date of trial;

(2) a member in good standing of the bar of the Supreme Court or the highest court of another state or a member of the bar of a Federal court for at least five years; and

(3) certified as qualified for duty as a military judge by the State Judge Advocate or other appropriate authority after completion of such training and certification required for military judges in any of the armed forces of the United States.

(c) Pro hac vice admission.--When a military judge is not a member of the bar of the Supreme Court, the military judge shall be deemed admitted pro hac vice, subject to filing a certificate with the State Judge Advocate setting forth the qualifications required under subsection (b).

(d) Designation.--The military judge of a general or special court-martial shall be designated by the State Judge Advocate or a designee for detail in the convening authority. Neither the convening authority nor any staff member of the convening authority shall prepare or review any report concerning the effectiveness, fitness or efficiency of the military judge so detailed which relates to performance of duty as a military judge.

(e) Ineligibility.--No person is eligible to serve as military judge if the person is the accuser or a witness in the case or has acted as investigating officer or a counsel in the case.

(f) Limitation on powers.--The military judge may not consult with the members of the court except in the presence of the accused, trial counsel and defense counsel. The military judge shall not vote with the members of the court.

Cross References. Section 5505 is referred to in section 5102 of this title.

§ 5506. Appointment of trial counsel and defense counsel.

(a) General rule.--For each general and special court-martial, the convening authority for the court shall detail trial counsel, defense counsel and such assistants as are appropriate. No person who has acted as investigating officer, military judge, witness or court member in any case shall act subsequently as trial counsel, assistant trial counsel or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense nor shall any person who has acted for the defense act later in the same case for the prosecution.

(b) Eligibility.--Any person who is detailed trial counsel or defense counsel in the case of a general or a special court-martial shall be a judge advocate as defined in section 5102 (relating to definitions).

(c) Pro hac vice admission.--When a defense counsel is not a member of the bar of the highest court of the State, the defense counsel shall be deemed admitted pro hac vice, subject to filing a certificate with the State Judge Advocate setting forth the qualification required under subsection (b).

Cross References. Section 5506 is referred to in section 5703 of this title.

§ 5507. Detail or employment of reporters and interpreters.

Under such regulations as the Governor or department may prescribe, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters who shall record the proceedings of and testimony taken before that court. Under like regulations, the convening authority of a military court may detail or employ interpreters who shall interpret for the court.

§ 5508. Absent and additional members.

(a) Authorized absence.--No member of a general or special court-martial may be absent or excused after the court has been assembled for the trial of the accused, except by the military judge as a result of a challenge, for physical disability or other good cause or by order of the convening authority for good cause.

(b) New members of general court-martial.--Whenever a general court-martial, other than a general court-martial composed of only a military judge, is reduced below five members, the trial shall not proceed unless the convening authority details new members sufficient in number to provide not less than five members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused and counsel for both sides.

(c) New members of special court-martial.--Whenever a special court-martial, other than a special court-martial composed of only a military judge, is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. The trial shall proceed with the new members present as if no evidence had been introduced previously at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, the accused and counsel for both sides.

(d) New military judge of court-martial.--If the military judge of a court-martial composed of only a military judge is unable to proceed with the trial because of physical disability, as a result of a challenge or for other good cause, the trial shall proceed, subject to any applicable conditions of section 5401 (relating to courts-martial classified), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused and counsel for both sides.

Cross References. Section 5508 is referred to in sections 5704, 5706 of this title.

CHAPTER 56
PRETRIAL PROCEDURE

Sec.

5601. Charges and specifications.
5602. Compulsory self-incrimination prohibited.
5603. Investigation.

5604. Forwarding of charges.
5605. Advice of judge advocate and reference for trial.
5606. Service of charges.

Enactment. Chapter 56 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 56, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5601. Charges and specifications.

(a) Execution and contents.--Charges and specifications shall be signed by a person subject to this part under oath before a commissioned officer authorized by this part to administer oaths and shall state:

(1) That the signer has personal knowledge of or has investigated the matters set forth therein.

(2) That they are true in fact to the best of the signer's knowledge and belief.

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

Cross References. Section 5601 is referred to in section 5714 of this title.

§ 5602. Compulsory self-incrimination prohibited.

(a) General rule.--No person subject to this part shall compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate the person.

(b) Advising accused of rights.--No person subject to this part shall 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 does not have to make any statement regarding the offense of which he is accused or suspected, that the person has a right to be represented by counsel and that any statement made by the person may be used as evidence against him in a trial by court-martial.

(c) Immaterial or degrading evidence.--No person subject to this part shall compel any person to make a statement or produce evidence before any military court if the statement or evidence is not material to the issue and may tend to degrade the person.

(d) Unlawfully obtained statement inadmissible.--No statement obtained from any person in violation of this section or through the use of coercion, unlawful influence or unlawful inducement shall be received in evidence against him in a trial by court-martial.

§ 5603. Investigation.

(a) General rule.--No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall 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 which should be made of the case in the interest of justice and discipline.

(b) Rights of accused.--The accused shall be advised of the charges against him and of the right to be represented at that investigation by counsel. Upon the accused's request, he shall

be represented by civilian counsel if provided by him, by military counsel of his own selection if such counsel is reasonably available, by counsel appointed through procedures of the Pennsylvania National Guard or, in the absence of such specific procedures, by the person exercising general court-martial jurisdiction over the command. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything the accused may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides, and a copy thereof shall be given to the accused.

(c) Further investigation.--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 subsection (b), no further investigation of that charge is 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 any new evidence in the accused's own behalf.

(d) Additional offenses.--If evidence adduced in an investigation indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused is:

(1) present at the investigation;

(2) informed of the nature of each uncharged offense investigated; and

(3) afforded the rights of representation, cross-examination and presentation prescribed in subsection (b).

(e) Requirements mandatory.--The requirements of this section are binding on all persons administering this part, but failure to follow them does not constitute jurisdictional error.

Cross References. Section 5603 is referred to in sections 5605, 5703 of this title.

§ 5604. Forwarding of charges.

When a person is held for trial by general court-martial, the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the person exercising general court-martial jurisdiction. If that is not practicable, the commanding officer shall report in writing to that person the reasons for delay.

§ 5605. Advice of judge advocate and reference for trial.

(a) General rule.--Before directing the trial of any charge by general court-martial, the convening authority shall refer it to a judge advocate for consideration and advice. The convening authority shall not refer a specification under a charge to a general court-martial for trial unless the convening authority has been advised in writing by a judge advocate of all of the following:

(1) The specification alleges an offense under this part.

(2) The specification is warranted by the evidence indicated in the report of investigation under section 5603 (relating to investigation), if there is such a report.

(3) A court-martial would have jurisdiction over the accused and the offense.

(b) Advice of judge advocate.--The advice of the judge advocate under subsection (a), with respect to a specification under a charge, shall include a written and signed statement by the judge advocate expressing conclusions with respect to each matter set forth in subsection (a) and recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

(c) Changes in charges and specifications.--If the charges or specifications are not correct formally or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made by the appointing authority.

§ 5606. Service of charges.

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. No person shall, against the person's objection, be brought to trial in a general court-martial case within a period of five days after the service of charges upon the person or in a special court-martial within a period of three days after the service of charges upon the person.

Cross References. Section 5606 is referred to in section 5704 of this title.

CHAPTER 57
TRIAL PROCEDURE

Sec.

5701. Governor and department may prescribe rules.
5702. Unlawfully influencing action of court.
5703. Duties of trial counsel and defense counsel.
5704. Sessions.
5705. Continuances.
5706. Challenges.
5707. Oaths or affirmations.
5708. Statute of limitations.
5709. Former jeopardy.
5710. Pleas of the accused.
5711. Opportunity to obtain witnesses and other evidence.
5712. Refusal to appear or testify.
5713. Contempts.
5714. Depositions.
5715. Admissibility of records of courts of inquiry.
5716. Voting and rulings.
5717. Number of votes required.
5718. Court to announce action.
5719. Record of trial.
5720. Defense of lack of mental responsibility.
5721. Effect of finding of lack of mental capacity on trial proceedings.
5722. Trial finding of lack of mental responsibility.

Enactment. Chapter 57 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 57, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5701. Governor and department may prescribe rules.

(a) General rule.--Pretrial, trial and posttrial procedures, including modes of proof, in court-martial cases arising under this part and for courts of inquiry may be prescribed by the Governor or the department as delegated by the Governor, by regulations, which shall apply the principles of law and the rules of evidence generally recognized in military criminal cases in courts-martial of the armed forces but which shall not be contrary to or inconsistent with this part.

(b) Uniformity.--All rules and regulations made pursuant to the provisions of this section shall be uniform insofar as practicable among the State military forces.

Cross References. Section 5701 is referred to in sections 5703, 5704 of this title.

§ 5702. Unlawfully influencing action of court.

(a) General rule.--No authority convening a general, special or summary court-martial nor any other commanding officer or officer serving on the staff thereof shall censure, reprimand or admonish the court or any member, military judge or counsel thereof, with respect to the findings or sentence adjudged by the court or with respect to any other exercise of its or his functions in the conduct of the proceedings. No person subject to this part may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or court of inquiry or any member thereof in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to his judicial acts.

(b) Exceptions.--Subsection (a) shall not apply with respect to any of the following:

(1) General instructional or informational courses in military justice, if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial.

(2) Statements and instructions given in open court by the military judge, summary court-martial officer or counsel.

(c) Performance reports on members and counsel.--In the preparation of an effectiveness, fitness or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the State military forces is qualified to be advanced in grade, in determining the assignment or transfer of a member of the State military forces or in determining whether a member of the State military forces should be retained on active status, no person subject to this part may, in preparing any such report:

(1) consider or evaluate the performance of duty of any such member as a member of a court-martial or witness therein; or

(2) give a less favorable rating or evaluation of any counsel because of the zeal with which counsel represented the accused before a court-martial.

§ 5703. Duties of trial counsel and defense counsel.

(a) Trial counsel.--The trial counsel of a general or special court-martial shall prosecute in the name of the Commonwealth and shall, under the direction of the court, prepare the record of the proceedings.

(b) Defense counsel.--

(1) The accused has the right to be represented in his defense before a general or special court-martial or at an investigation under section 5603 (relating to investigation). The accused may be represented by civilian counsel at the provision and expense of the accused or may be represented by military counsel of his own selection if reasonably available or by the defense counsel appointed under section 5506 (relating to appointment of trial counsel and defense counsel).

(2) Should the accused have civilian counsel of his own selection, the defense counsel and assistant defense counsel, if any, who were detailed shall act as associate counsel unless excused at the request of the accused.

(3) Except as provided under paragraph (4), should the accused have military counsel of his own selection, the defense counsel and assistant defense counsel, if any, who were detailed may be excused by the military judge.

(4) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 5701 (relating to Governor and department may prescribe rules) may prescribe rules to detail counsel and may do any of the following:

(i) Detail additional military counsel as assistant defense counsel.

(ii) If the accused is represented by military counsel of the accused's own selection, approve a request from the accused that military counsel detailed to the accused act as associate defense counsel.

(5) The State Judge Advocate of the same force of which the accused is a member shall determine whether the military counsel selected by an accused is reasonably available.

(c) Brief by defense counsel.--In any court-martial proceeding resulting in a conviction, the defense counsel may forward for attachment to the record of proceedings a brief of such matters he determines should be considered, on behalf of the accused on review, including any objection to the contents of the record which counsel considers appropriate.

(d) Assistant trial counsel.--An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or if he is qualified to be a trial counsel under section 5506, perform any duty imposed by law, regulation or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) Assistant defense counsel.--An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or if he is qualified to be the defense counsel under section 5506, perform any duty imposed by law, regulation or the custom of the service upon counsel for the accused.

§ 5704. Sessions.

(a) Proceedings in absence of members.--At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to section 5606 (relating to service of charges), call the court into session without the presence of the members for the purpose of:

(1) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(2) hearing and ruling upon any matter which may be ruled upon by the military judge under this section, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) holding the arraignment and receiving the pleas of the accused; and

(4) performing any other procedural function which may be performed by the military judge under this part or under rules prescribed pursuant to section 5701 (relating to Governor and department may prescribe rules) and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel and the trial counsel and shall be made a part of the record. These proceedings may be conducted notwithstanding the number of court members and without regard to the provisions of section 5508 (relating to absent and additional members).

(b) Other proceedings.--When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel and the military judge.

Cross References. Section 5704 is referred to in section 5504 of this title.

§ 5705. Continuances.

The military judge of a court-martial or a summary court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

§ 5706. Challenges.

(a) Challenges for cause.--The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge shall determine the relevancy and validity of challenges for cause and shall not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered. If exercise of a challenge for cause reduces the court below the minimum number of members required by section 5401 (relating to courts-martial classified), the parties shall, notwithstanding section 5508 (relating to absent and additional members), exercise or waive any challenge for cause against the remaining members of the court before additional members are detailed to the court.

(b) Preemptory challenges.--Each accused and the trial counsel are entitled to one initial peremptory challenge of members of the court. The military judge may not be challenged except for cause. When new members are detailed to the court to meet the minimum number of members required by section 5401 and after any challenges for cause against the new members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

§ 5707. Oaths or affirmations.

(a) General rule.--Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, reporters and interpreters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully. The form of the oath or

affirmation, the time and place of the taking thereof, the manner of recording the same and whether the oath or affirmation shall be taken for all cases in which these duties are to be performed or for a particular case shall be in accordance with regulations prescribed by the Governor or the department. These regulations may provide that an oath or affirmation to perform faithfully the duties as a military judge, trial counsel, assistant trial counsel, defense counsel or assistant defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty, and, if such an oath or affirmation is taken, it need not be taken again at the time the judge advocate or other person is detailed to that duty.

(b) Witnesses.--Each witness before a court-martial shall be examined under oath or affirmation.

§ 5708. Statute of limitations.

(a) Two-year limitation.--Except as otherwise provided in this part, a person subject to this part charged with any offense shall not be liable to be tried by court-martial or punished under section 5301 (relating to commanding officer's nonjudicial punishment) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or before the imposition of nonjudicial punishment under section 5301.

(b) Computation of period of limitation.--The following shall be excluded in computing the period of limitation prescribed in this section:

(1) Periods in which the accused was absent without authority or fleeing from justice.

(2) Periods in which the accused was absent from territory in which the Commonwealth has the authority to apprehend him or in the custody of civil authorities or in the hands of the enemy.

(3) When the United States is at war, periods during war and until two years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress, when the accused commits any offense:

(i) involving fraud or attempted fraud against the United States, the Commonwealth or any agency thereof in any manner, whether by conspiracy or not;

(ii) in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States or the Commonwealth; or

(iii) in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation or other termination or settlement of any contract, subcontract or purchase order which is connected with or related to the prosecution of the war or with any disposition of termination inventory by any war contractor or government agency.

(c) Subsequent action not barred.--If charges or specifications are dismissed before trial as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations has expired or will expire within 180 days after the date of dismissal, trial and punishment under new charges and specifications are not barred by the statute of limitations if the new charges and specifications:

(1) are received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

(2) allege the same acts or omissions that were included in the dismissed charges or specifications.

Cross References. Section 5708 is referred to in section 5105 of this title.

§ 5709. Former jeopardy.

(a) General rule.--No person subject to this part shall, without the person's consent, be tried a second time for the same offense. Prosecution under this part shall not bar prosecution by civil authorities for a crime or offense growing out of the same act or omission committed in violation of the laws of the civil jurisdiction.

(b) Definition of trial.--No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed. However, a proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section.

§ 5710. Pleas of the accused.

(a) Inadequacy or lack of pleading.--A plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty, if, after arraignment before a court martial:

(1) an accused makes an irregular pleading;

(2) after a plea of guilty an accused sets up matter inconsistent with the plea;

(3) it appears that an accused has entered a plea of guilty improvidently or through lack of understanding or its meaning and effect; or

(4) an accused fails or refuses to plead.

(b) Plea of guilty.--With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

Cross References. Section 5710 is referred to in section 5717 of this title.

§ 5711. Opportunity to obtain witnesses and other evidence.

(a) General rule.--The trial counsel, the defense counsel and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the Governor or department may prescribe.

(b) Issuance of process.--The following shall apply to issuance of process:

(1) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall apply the principles of law and the rules of courts-martial generally recognized in military criminal cases in the courts of the armed forces of the United States, unless contrary to or inconsistent with this part.

(2) If process in paragraph (1) is contrary or inconsistent with this part, process shall be similar to that which the courts of this Commonwealth having criminal jurisdiction may lawfully issue and shall run to any part of the Commonwealth and to any other state, territory or district of possession in which the court-martial may be sitting.

(3) If process in paragraphs (1) and (2) are contrary to or inconsistent with this part, process may be executed by civil officers as prescribed by the laws of the place where the witness or evidence is located or of the United States.

§ 5712. Refusal to appear or testify.

Any person not subject to this part who has been duly subpoenaed to appear as a witness or to produce books and records before a court-martial or court of inquiry or before any military or civil officer designated to take a deposition to be read in evidence before such a court, who has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending a criminal court of the State and who willfully neglects or refuses to appear, refuses to qualify as a witness, refuses to testify or refuses to produce any evidence which that person may have been legally subpoenaed to produce is guilty of an offense and may be punished by the military court in the same manner as a criminal court of the Commonwealth.

§ 5713. Contempts.

A military judge or summary court-martial officer may punish for contempt any person who uses any menacing word, sign or gesture in his presence or who disturbs proceedings by any riot or disorder. The following punishments shall apply:

(1) A person subject to this part may be punished for contempt by confinement not to exceed 30 days or a fine of $100, or both.

(2) A person not subject to this part may be punished for contempt by a military court in the same manner used by a criminal court of the jurisdiction.

§ 5714. Depositions.

(a) General rule.--At any time after charges have been signed, as provided in section 5601 (relating to charges and specifications), any party may take oral or written depositions unless the military judge or summary court-martial officer hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause.

(b) Notice of taking deposition.--The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Persons authorized to take depositions.--Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of this Commonwealth or by the laws of the place where the deposition is taken to administer oaths.

(d) Admissibility in evidence.--A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file or similar material, may be played in evidence before any military court if it appears:

(1) that the witness resides or is beyond the state in which the court is ordered to sit or beyond 100 miles from the place of trial or hearing;

(2) that the witness, by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) that the present whereabouts of the witness is unknown.

§ 5715. Admissibility of records of courts of inquiry.

(a) Court-martial.--In any case not extending to the dismissal of a commissioned officer, the sworn testimony contained in the duly authenticated record of proceedings of a court of inquiry of a person whose oral testimony cannot be obtained may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Use of testimony by defense.--Such testimony may be read in evidence only by the defense in cases extending to dismissal or dishonorable discharge of a commissioned officer.

(c) Court of inquiry.--Such testimony may also be read in evidence before a court of inquiry by either party.

§ 5716. Voting and rulings.

(a) Findings, sentences and challenges.--Voting by members of a general or special court-martial on the findings and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) Questions of law and interlocutory questions.--The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court. However, the military judge may change the ruling at any time during the trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in section 5717 (relating to number of votes required), beginning with the junior in rank.

(c) Instructions to members of court.--Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) that, in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused shall be acquitted;

(3) that, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) that the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the prosecution.

(d) Proceedings before military judge only.--Subsections (a), (b) and (c) do not apply to a court-martial composed of a

military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition, on request, find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

§ 5717. Number of votes required.

(a) Conviction.--No person subject to this part shall be convicted of any offense, except as provided in section 5710(b) (relating to pleas of accused) or by the concurrence of two-thirds of the members present at the time the vote is taken.

(b) Other matters.--All other matters to be decided by the members of a general or special court-martial shall be determined by a majority vote, but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion relating to the accused's sanity is a determination against the accused. A tie vote on any other matter is a determination in favor of the accused.

Cross References. Section 5717 is referred to in sections 5716, 5720 of this title.

§ 5718. Court to announce action.

Every court-martial shall announce its findings and sentence to the parties as soon as determined.

§ 5719. Record of trial.

(a) General and special courts-martial.--Each general and special courts-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability or absence. In a court-martial consisting of only a military judge, if the record cannot be authenticated by the military judge by reason of his death, disability or absence, the record shall be authenticated by the signature of the court reporter. A complete verbatim record of the proceedings and testimony shall be prepared in each general and special court-martial case resulting in a conviction. In all other court-martial cases, the record shall contain such matters as the Governor or department may by regulation prescribe.

(b) Summary court martial.--Each summary court-martial shall keep a separate record of the proceedings in each case. The record shall be authenticated in such manner as the Governor or department may by regulation prescribe.

(c) Furnishing record to accused.--A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

§ 5720. Defense of lack of mental responsibility.

(a) General rule.--It shall be an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

(b) Burden of proof.--The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

(c) Instructions or findings by military judge.--Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall:

(1) in a court-martial not composed of only a military judge, instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused guilty, not guilty or not guilty only by reason of lack of mental responsibility; or

(2) in a court-martial composed of only a military judge, find the accused guilty, not guilty or not guilty only by reason of lack of mental responsibility.

(d) Finding of not guilty.--Notwithstanding section 5717 (relating to number of votes required), the accused shall be found not guilty only by reason of lack of mental responsibility if:

(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

(2) in the case of a court-martial composed of only a military judge, the military judge or summary court-martial officer determines that the defense of lack of mental responsibility has been established.

§ 5721. Effect of finding of lack of mental capacity on trial proceedings.

(a) Mental incapacity generally.--When the accused is determined under this part to be suffering from a mental disease or defect rendering him mentally incompetent such that he is unable to understand the nature of the proceedings against him or to conduct or cooperate intelligently in the defense of the case, the general court-martial convening authority for the accused shall commit him to the custody of an agency or facility providing services to persons with such a disease or defect.

(b) Agency or facility action.--The agency or facility providing services shall take action in accordance with the jurisdictional laws applicable to persons incompetent to stand trial. If, at the end of the period for hospitalization, it is determined that the accused's mental condition has not so improved as to permit the trial to proceed, action shall be taken in accordance with the law of the jurisdiction.

(c) Recovery of accused.--When the director of a facility in which the accused is hospitalized determines that the accused has recovered to such an extent that he is able to understand the nature of the proceedings against him and to conduct or cooperate intelligently in the defense of the case, the director shall promptly transmit a notification of that determination to the general court-martial convening authority for the accused. The director shall send a copy of the notification to the defense counsel for the accused.

(d) Receipt of notification of competence.--Upon receipt of a notification transmitted under subsection (c), the general court-martial convening authority shall promptly take custody of the accused unless he is no longer subject to this part. If the accused is no longer subject to this part, the agency or facility with custody of the accused shall take such action as authorized by law of the jurisdiction. The director of the facility may retain custody of the accused for not more than 30 days after transmitting the notifications required under subsection (c).

(e) Court ordering commitment.--In the application of jurisdictional law applicable to persons incompetent to stand trial, references to the court that ordered the commitment of a person and to the clerk of such court shall be deemed to refer to the general court-martial convening authority for the accused. However, if the accused is no longer subject to this part, the State trial court with felony jurisdiction in the county where the accused is hospitalized or otherwise may be found shall be considered as the court that ordered the commitment of the accused.

§ 5722. Trial finding of lack of mental responsibility.

(a) Finding of lack of mental responsibility generally.--If an accused is found by a court-martial not guilty only by reason of lack of mental responsibility, the accused shall be committed to a suitable facility until he is eligible for release in accordance with this section.

(b) Hearing required.--The court-martial shall conduct a hearing on the mental condition of the accused in accordance with the jurisdictional law applicable to persons incompetent to stand trial. A report of the results of the hearing shall be made to the general court-martial convening authority for the accused.

(c) Failure to find accused incompetent.--If the court-martial fails to find that the release of the accused would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a mental disease or defect of the accused, the following shall take place:

(1) the general court-martial convening authority shall commit the accused to the custody of an agency or facility authorized to provide services to such persons; and

(2) the agency or facility with custody of the accused shall take action in accordance with the jurisdictional law applicable to persons incompetent to stand trial.

(d) Status change of accused while in custody.--If the status of an accused changes while the accused is in the custody of a Commonwealth agency, hospitalized or on conditional release under a prescribed regimen of medical, psychiatric or psychological care or treatment so that the accused is no longer subject to this part, the agency or facility with custody of action shall be taken in accordance with the jurisdictional law.

CHAPTER 58
SENTENCES

Sec.

5801. Cruel and unusual punishments prohibited.
5802. Maximum limits.
5803. Grading of offenses.
5804. Effective date of sentences.
5805. Execution of confinement.
5806. Deferment of sentences.
5807. Reduction in enlisted grade.
5808. Forfeiture of pay and allowances during confinement.

Enactment. Chapter 58 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 58, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91,

and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5801. Cruel and unusual punishments prohibited.

Punishment by flogging or by branding, marking or tattooing on the body or any other cruel or unusual punishment may not be adjudged by a court-martial or inflicted upon any person subject to this part. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

§ 5802. Maximum limits.

(a) General rule.--The punishment which a court-martial may direct for an offense may not exceed such limits as the Governor or department may prescribe for that offense. In no instance may a sentence to confinement exceed more than five years for a military offense.

(b) Punitive offenses.--The limits of punishment for an offense described in Chapter 60 (relating to punitive sections) shall be prescribed by the Governor or department by regulation. In no instance shall any punishment exceed that authorized by this section or the maximum punishment authorized by the United States Manual for Courts-Martial.

§ 5803. Grading of offenses.

(a) Felonies.--A conviction by general court-martial for any military offense for which an accused may receive a sentence of confinement for more than one year is the equivalent of a felony offense.

(b) Misdemeanors.--Except for convictions by a summary court-martial, all other military offenses are the equivalents of misdemeanors.

(c) Noncriminal.--Any conviction by a summary court-martial is not a criminal conviction.

§ 5804. Effective date of sentences.

(a) Forfeiture of pay and allowances.--Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances, in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) Confinement.--Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

(c) Other sentences.--All other sentences of courts-martial are effective on the date ordered executed.

Cross References. Section 5804 is referred to in section 5207 of this title.

§ 5805. Execution of confinement.

(a) Place of confinement.--A sentence of confinement adjudged by a court-martial, whether or not the sentence includes discharge or dismissal and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place authorized by this part. Persons so confined are subject to the same discipline and treatment as persons regularly confined or committed to that place of confinement.

(b) Authority to require hard labor.--The omission of the words "hard labor" from any sentence or punishment authorized under this part does not deprive the confinement facility executing that sentence or punishment of the power to require

hard labor as a part of the punishment if it is otherwise within the authority of that facility to do so.

(c) Refusal to accept accused prohibited.--No place of confinement may refuse or decline to accept an accused sentenced to confinement under this part or require payment of any fee or charge for so receiving or confining an accused except as otherwise provided by law. Any such fee or charge shall not exceed a per diem charge of $25 per day if otherwise authorized by law.

§ 5806. Deferment of sentences.

(a) Deferment upon application of accused.--On application by an accused, the convening authority or the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned may, in that person's sole discretion, defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the person who granted it or, if the accused is no longer under that person's jurisdiction, by the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(b) Deferment without consent of accused.--The convening authority may defer the service of the sentence to confinement, without the consent of the accused, until after the accused has been permanently released to the State military forces by a state, the United States or a foreign country. This subsection applies to a person subject to this part who:

(1) while in the custody of a state, the United States or a foreign country, is temporarily returned by that state, the United States or foreign country to the State military forces for trial by court-martial; and

(2) after the court-martial, is returned to that state, the United States or foreign country under the authority of a mutual agreement or treaty.

(c) Deferment while review of case is pending.--When a sentence to confinement has been ordered executed but review of the case is pending under section 5909 (relating to review by a board of review), the Adjutant General may defer further service of the sentence to confinement while the review is pending.

§ 5807. Reduction in enlisted grade.

(a) General rule.--An enlisted member in a pay grade above E-1 receiving a sentence by a court-martial that includes a dishonorable or bad-conduct discharge or confinement shall receive a reduction in pay grade to E-1 effective on the date the sentence is approved.

(b) Sentence no longer effective.--If an enlisted member receives a reduction in pay grade under subsection (a) and the sentence which led to a reduction in pay grade is later set aside, disapproved or, as finally approved, does not include a dishonorable or bad-conduct discharge or confinement, the rights and privileges of which the person was deprived because of that reduction shall be restored, including pay grade and allowances.

§ 5808. Forfeiture of pay and allowances during confinement.

(a) General rule.--An enlisted member receiving a court-martial sentence of confinement for more than six months, or confinement of six months or less and a dishonorable or bad-conduct discharge or dismissal, shall forfeit the pay and allowances due him during any period of confinement or parole as provided in this subsection. The forfeiture shall take effect on the date the sentence was approved. The pay and allowances forfeited in the case of a general court-martial shall be all

pay and allowances due the enlisted member during such period and in the case of a special court-martial shall be two-thirds of all pay due the enlisted member during such period.

(b) Exception.--The convening authority or other person acting under section 5903 (relating to action on general court-martial records) may waive any or all requirements under subsection (a) for a period not to exceed six months if the accused has dependents. Any amount of pay or allowances that would be forfeited under subsection (a) shall be paid to the dependents of the accused.

(c) Sentence no longer effective.--If an enlisted member is forced to forfeit pay and allowances under subsection (a) and the sentence which led to the forfeiture is later set aside, disapproved or, as finally approved, does not include confinement for more than six months or confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal, the member shall be paid the pay and allowances which he would have been paid for the period during which the forfeiture was in effect.

CHAPTER 59
POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

Sec.

5901. Error of law; lesser included offense.
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5903. Action on general court-martial records.
5904. Reconsideration and revision.
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Enactment. Chapter 59 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 59, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 5901. Error of law; lesser included offense.

(a) Error of law.--A finding or sentence of a court-martial shall not be held incorrect on the grounds of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Approval of lesser offense.--Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

§ 5902. Action by convening authority.

(a) Report to convening authority.--The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.

(b) Copy of record to accused.--In a summary court-martial case, the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by subsection (c).

(c) Submission of matters by accused to the convening authority.--The following shall apply to the submission of matters by an accused to the convening authority:

(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission shall be in writing. Except in a summary court-martial case, such a submission shall be made within ten days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of a judge advocate under subsection (g). In a summary court-martial case, such a submission shall be made within seven days after the sentence is announced.

(2) If the accused shows that additional time is required for the accused to submit matters under paragraph (1), the convening authority or other person taking action under this section may, for good cause, extend the applicable period under paragraph (1) for not more than an additional 20 days.

(3) The accused may waive the right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. The time within which the accused may make a submission under paragraph (1) shall be deemed to have expired upon the submission of a waiver to the convening authority.

(d) Action by the convening authority.--The authority of a convening authority to modify the findings and sentence of a court-martial is a matter of command prerogative and involves the sole discretion of the convening authority. No action is required to be taken by the convening authority. If action is taken by the convening authority, it must consider all matters submitted by the accused. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this section.

(e) Actions by authority on sentence.--The authority authorized to take action may:

(1) Approve the sentence in whole or in part.

(2) Disapprove the sentence in whole or in part.

(3) Commute the sentence in whole or in part.

(4) Suspend the sentence in whole or in part.

(f) Action by authority on findings.--The authority authorized to take action may:

(1) Dismiss any charge or specification by setting aside a finding of guilty.

(2) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(g) Recommendation of judge advocate.--Before acting on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action shall obtain and consider the written recommendation of a judge advocate. The convening authority or other authorized

party shall refer the record of trial to a judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate shall include such matters as may be prescribed by regulation by the Governor or department and shall be served on the accused, who may submit any matter in the recommendation to the convening authority under subsection (c). An accused's failure to include any matter in the recommendation or attached to the recommendation in his submission waives his right to object to such matter.

Cross References. Section 5902 is referred to in section 5918 of this title.

§ 5903. Action on general court-martial records.

The convening authority shall refer the record of each general court-martial to his staff judge advocate or legal officer who shall submit his written opinion thereon to the convening authority. If there is no qualified staff judge advocate or legal officer available, the State Judge Advocate shall assign a judge advocate officer for such purpose. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

Cross References. Section 5903 is referred to in sections 5808, 5908 of this title.

§ 5904. Reconsideration and revision.

(a) General rule.--The convening authority or other authorized party may order a proceeding in revision. A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

(b) Revision not authorized.--In no case may a proceeding in revision:

(1) reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

(2) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge which sufficiently alleges a violation of a punitive section of this title; or

(3) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

§ 5905. Rehearings.

(a) General rule.--The convening authority or other authorized party may order a rehearing. A rehearing may be ordered if the convening authority or other authorized party disapproves the findings and sentence and states the reasons for disapproval of the findings. If such party disapproves the findings and sentence but does not order a rehearing, that party shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other authorized party disapproves the sentence.

(b) Procedural requirements.--Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing, the accused may not be tried for any offense of which he was found not guilty by the first court-martial. No sentence

in excess of or more severe than the original sentence may be approved, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings or unless the sentence prescribed for the offense is mandatory. If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.

§ 5906. Approval by convening authority.

In acting on the findings and sentence of a court-martial, the convening authority shall approve only such findings of guilty, and the sentence or such part or amount of the sentence as the convening authority finds correct in law and fact and as he in his discretion determines should be approved. Unless the convening authority indicates otherwise, approval of the sentence shall constitute approval of the findings and sentence.

Cross References. Section 5906 is referred to in sections 5912, 5918 of this title.

§ 5907. Disposition of records after review by convening authority.

(a) General rule.--Except as otherwise required by this title, all records of trial and related documents shall be transmitted and disposed of as prescribed by this section and regulations promulgated by the department.

(b) Final action by Governor.--When the Governor has taken final action in a court-martial case in which he is the convening authority, there shall be no further review.

(c) Final action by other authority.--When a convening authority other than the Governor has taken final action in a general court-martial case, the convening authority shall forward the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the State Judge Advocate.

(d) Bad-conduct discharge.--Where the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the record shall be forwarded to the officer exercising general court-martial jurisdiction over the command to be reviewed in the same manner as a record of trial by a general court-martial. If the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad-conduct discharge, whether or not suspended, the record shall be forwarded to the State Judge Advocate.

(e) Review and disposition of other records.--All other special and summary court-martial records shall be reviewed by a judge advocate of the Pennsylvania National Guard and shall be transmitted and disposed of as the department may prescribe by regulations.

§ 5908. Review by State Judge Advocate and Adjutant General.

(a) Review by State Judge Advocate of guilty finding.--Each general and special court-martial case in which there has been a finding of guilty shall be reviewed by the State Judge Advocate, or a designee. The State Judge Advocate may not review a case if he has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or

defense. The State Judge Advocate's review shall be in writing and shall contain the following:

(1) Conclusions as to:

(i) whether the court had jurisdiction over the accused and the offense;

(ii) the sufficiency of the charge and specification; and

(iii) whether the sentence was within the limits prescribed as a matter of law.

(2) A response to each allegation of error made in writing by the accused.

(3) If the case is sent for action under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

(b) Review by Adjutant General of guilty finding.--The record of trial and related documents in each case reviewed under subsection (a) shall be sent for action to the Adjutant General, if:

(1) the judge advocate who reviewed the case recommends corrective action;

(2) the sentence approved under section 5903 (relating to action on general court-martial records) extends to dismissal, a bad-conduct or dishonorable discharge or confinement for more than six months; or

(3) such action is otherwise required by regulations promulgated by the department.

(c) Action by Adjutant General on guilty finding.--After review under subsection (b), the Adjutant General may:

(1) disapprove or approve the findings or sentence in whole or in part;

(2) remit, commute or suspend the sentence in whole or in part;

(3) dismiss the charges; or

(4) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence or on both.

(d) Rehearing impracticable.--If a rehearing is ordered under subsection (c) but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.

(e) Review by Governor of guilty finding.--If the opinion of the State Judge Advocate is that corrective action is required as a matter of law and if the Adjutant General does not take action that is at least as favorable to the accused as that recommended by the State Judge Advocate, the record of trial and action thereon shall be sent to the Governor for review and action as deemed appropriate.

(f) Review by State Judge Advocate of not guilty finding.--The State Judge Advocate may review any case in which there has been a finding of not guilty of all charges and specifications. The State Judge Advocate may not review a case if he has acted in the same case as an accuser, investigating officer, member of the court, military judge or counsel or has otherwise acted on behalf of the prosecution or defense. The review by the State Judge Advocate shall be limited to questions of subject matter jurisdiction.

(g) Review by Adjutant General of not guilty finding.--The record of trial and related documents in each case reviewed under subsection (f) shall be sent for action to the Adjutant General.

(h) Action by Adjutant General on not guilty finding.--After review under subsection (g), the Adjutant General may:

(1) when subject matter jurisdiction is found to be lacking, void the court-martial ab initio, with or without prejudice to the government; or

(2) return the record of trial and related documents to the State Judge Advocate for appeal by the government as provided by law.

§ 5909. Review by a board of review.

(a) Composition of boards of review.--The State Judge Advocate may constitute one or more boards of review, each composed of not less than three commissioned officers, each of whom shall be a member of the bar of the Supreme Court, and one of whom shall be a judge advocate of the Pennsylvania National Guard.

(b) Affirming findings and sentence.--In a case referred to it, the board of review may act only with respect to the findings and sentence as approved by the convening authority. It may affirm only such findings of guilty and a sentence, or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, it shall have authority to weigh the evidence, judge the credibility of witnesses and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

(c) Setting aside findings and sentence.--If the board of review sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

(d) Action by convening authority.--The State Judge Advocate shall, unless there is to be further action by the Governor, instruct the convening authority to take action in accordance with the decision of the board of review. If the board of review has ordered a rehearing but the convening authority finds a rehearing impracticable, the convening authority may dismiss the charges.

(e) Uniform rules of procedure.--In the event one or more boards of review are constituted in accordance with this section, the State Judge Advocate shall prescribe uniform rules of procedure for proceedings in and before such board or boards of review.

(f) Waiver of review.--The accused may file with the convening authority a statement expressly withdrawing the right of the accused to have his case reviewed by a board of review. Such a withdrawal shall be signed by both the accused and defense counsel and must be filed in accordance with appellate procedures as provided by law. The accused may withdraw his case from review by a board of review at any time in accordance with appellate procedures as provided by law.

Cross References. Section 5909 is referred to in section 5806 of this title.

§ 5910. Review by Superior Court.

(a) General rule.--Final judgments of courts-martial empowered to impose a sentence of confinement for one year or more are appealable to the Superior Court, after approval by the convening authority, in the same manner and subject to the same process as a criminal conviction by the courts of common pleas. The appellate procedures to be followed shall be those provided by law for the appeal of criminal cases.

(b) Waiver of review.--The accused may file with the convening authority a statement expressly withdrawing the right of the accused to have his case reviewed by the Superior Court. Such a withdrawal shall be signed by both the accused and his defense counsel and must be filed in accordance with appellate procedures as provided by law. The accused may withdraw his case from review by the Superior Court at any time in accordance with appellate procedures as provided by law.

Cross References. Section 5910 is referred to in section 5912 of this title.

§ 5911. Appellate counsel.

(a) Counsel for the Commonwealth.--The State Judge Advocate shall detail a judge advocate as counsel to represent the Commonwealth in the review or appeal of cases by a board of review or before the Superior Court or before any other court when requested to do so by the Attorney General. Counsel must be a member in good standing of the bar of the Supreme Court.

(b) Counsel for the accused.--In all posttrial reviews and appeals, whether initiated by the accused or the Commonwealth, the accused has the right to be represented by appellate military counsel before any reviewing authority and before any appellate court. Upon the request of an accused, the State Judge Advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases. An accused may be represented by civilian appellate counsel at no expense to the Commonwealth.

§ 5912. Execution of sentence; suspension of sentence.

(a) Appellate review not waived and appeal not withdrawn.--If a sentence extends to dismissal or a dishonorable or bad-conduct discharge, the right of the accused to appellate review is not waived and an appeal is not withdrawn, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by the Superior Court under section 5910 (relating to review by Superior Court) and is deemed final by the law of state where the judgment was had.

(b) Appellate review waived or appeal withdrawn.--If a sentence extends to dismissal or a dishonorable or bad-conduct discharge, the right of the accused to appellate review is waived or an appeal is withdrawn, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until review of the case by the State Judge Advocate and any action on that review is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other authorized party when approved under section 5906 (relating to approval by convening authority).

§ 5913. Vacation of suspension.

(a) Bad-conduct discharges and general court-martial sentences.--Prior to the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on an alleged violation of probation. The probationer shall be represented at the hearing by military counsel if the probationer so desires.

(b) Action by court-martial.--The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be forwarded for action to the officer exercising general court-martial jurisdiction over the

probationer. If the officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed subject to applicable restrictions in this part.

(c) Other sentences.--The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

§ 5914. Petition for new trial.

At any time within two years after approval by the convening authority of a court-martial sentence, the accused may petition the Adjutant General for a new trial on the grounds of newly discovered evidence or fraud on the court-martial.

Cross References. Section 5914 is referred to in section 5917 of this title.

§ 5915. Remission and suspension.

(a) General rule.--Any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the Governor.

(b) Substitution of administrative discharge by Governor.--The Governor may, for good cause, substitute an administrative form of discharge, as authorized by applicable military regulations, for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Cross References. Section 5915 is referred to in section 5917 of this title.

§ 5916. Restoration.

(a) General rule.--Under such regulations as may be prescribed by the Governor or department, all rights, privileges and property affected by an executed portion of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed portion is included in a sentence imposed upon the new trial or rehearing.

(b) Substitution of administrative discharge for invalid discharge.--If a previously executed sentence of dishonorable or bad-conduct discharge is not sustained on a new trial, the Governor shall substitute a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

§ 5917. Finality of proceedings, findings and sentences.

The appellate review of records of trial, the proceedings, findings and sentences of courts-martial as approved, reviewed or affirmed and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review or affirmation are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies and officers of the United States and the several states, subject only to action upon a petition for a new trial as provided in section 5914 (relating to petition for new trial) and to action under section 5915 (relating to remission and suspension).

§ 5918. Leave pending review of conviction.

Under regulations prescribed by the Governor or the department, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this chapter if the sentence, as approved under section 5902

(relating to action by convening authority) or 5906 (relating to approval by convening authority) includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date on which the sentence is approved under section 5906 or at any time after such date, and such leave may be continued until the date on which action under this chapter is completed or may be terminated at any earlier time.

§ 5919. Appeal by the Commonwealth.

(a) General rule.--In a trial by court-martial in which a punitive discharge may be adjudged, the Commonwealth may appeal the following:

(1) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

(2) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

(3) An order or ruling which directs the disclosure of classified information.

(4) An order or ruling which imposes sanctions for nondisclosure of classified information.

(5) A refusal of the military judge to issue a protective order sought by the Commonwealth to prevent the disclosure of classified information.

(6) A refusal by the military judge to enforce a protective order sought by the Commonwealth to prevent the disclosure of classified information which has previously been issued by appropriate authority.

(b) Exceptions.--Notwithstanding subsection (a), the Commonwealth may not appeal a finding of not guilty with respect to the charge or specification by the members of the court-martial or by a judge in a bench trial so long as it is not made in reconsideration.

(c) Written notice required.--An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.

(d) Diligent prosecution required.--An appeal under this section shall be diligently prosecuted. Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.

(e) Action by Superior Court.--An appeal under this section shall be forwarded to the Superior Court. In ruling on an appeal under this section, the court may act only with respect to matters of law.

CHAPTER 60
PUNITIVE SECTIONS

Sec.

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Enactment. Chapter 60 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 60, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

Cross References. Chapter 60 is referred to in sections 5102, 5802 of this title.

§ 6001. Principals.

Any person subject to this part who:

(1) commits an offense punishable by this part or aids, abets, counsels, commands or procures its commission; or

(2) causes an act to be done which if directly performed by him would be punishable by this part;

is a principal.

§ 6002. Accessory after the fact.

Any person subject to this part who, knowing that an offense punishable by this part has been committed, receives, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment shall be punished as a court-martial may direct.

§ 6003. Conviction of lesser included offense.

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

§ 6004. Attempts.

(a) Attempt defined.--An act done with specific intent to commit an offense under this part amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(b) Punishment.--Any person subject to this part who attempts to commit any offense punishable by this part shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Effect of consummation of offense.--Any person subject to this part may be convicted of an attempt to commit an offense although it appears at the trial that the offense was consummated.

§ 6005. Conspiracy.

Any person subject to this part who conspires with any other person to commit an offense under this part shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

§ 6006. Solicitation.

(a) Desertion and mutiny.--Any person subject to this part who solicits or advises another or others to desert in violation of section 6009 (relating to desertion) or mutiny in violation of section 6018 (relating to mutiny or sedition) shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, the person shall be punished as a court-martial may direct.

(b) Misbehavior before enemy and sedition.--Any person subject to this part who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 6023 (relating to misbehavior before enemy) or sedition in violation of section 6018 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, the person shall be punished as a court-martial may direct.

§ 6007. Fraudulent enlistment, appointment or separation.

Any person who:

(1) procures his own enlistment or appointment in the State military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures his own separation from the State military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

§ 6008. Unlawful enlistment, appointment or separation.

Any person subject to this part who effects an enlistment or appointment in or a separation from the State military forces of any person who is known to him to be ineligible for that enlistment, appointment or separation because it is prohibited by law, regulation or order shall be punished as a court-martial may direct.

§ 6009. Desertion.

(a) Offense defined.--Any member of the State military forces who:

(1) without authority goes or remains absent from his unit, organization or place of duty with intent to remain away from there permanently;

(2) quits his unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) without being regularly separated from one of the State military forces, enlists or accepts an appointment in the same or another one of the State military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated or enters any foreign armed service, except when authorized by the United States;

is guilty of desertion.

(b) Commissioned officer tendering resignation.--Any commissioned officer of the State military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away from there permanently is guilty of desertion.

(c) Punishment.--Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by confinement of not more than five years or such other punishment as a court-martial may direct. If the desertion or attempt to desert occurs at any other time, the person shall be punished as a court-martial may direct.

Cross References. Section 6009 is referred to in section 6006 of this title.

§ 6010. Absence without leave.

(a) Offense defined.--Any person subject to this part who, without authority:

(1) fails to go to his appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) absents himself or remains absent from his unit, organization or place of duty at which he is required to be at the time prescribed;

is absent without leave and shall be punished as a court-martial may direct for a military offense or may be charged with a summary offense.

(b) Military offense.--Absence without leave is a military offense subject to punishment as a court-martial may direct or by nonjudicial punishment under this part.

(c) Summary offense.--Absence without leave as defined in subsection (a) is a summary offense.

(d) Fines.--A person convicted of the summary offense of absence without leave shall be sentenced to pay a fine of not less than $100 nor more than $300 for the first offense and a fine of not less than $300 nor more than $1,000 for a second or subsequent offense.

(e) Costs.--Any person convicted of the summary offense of absence without leave shall, in addition to the fine imposed,

be sentenced to pay costs as provided or prescribed by or pursuant to 42 Pa.C.S. Ch. 17 (relating to governance of the system).

(f) Institution of proceedings.--A person subject to this part authorized by the Adjutant General or his designee may institute summary proceedings for violation of this section by filing a complaint with an issuing authority as provided in the Pennsylvania Rules of Criminal Procedure. The alleged offense shall be deemed to have occurred in the magisterial district where the unit to which the member is assigned is located.

(g) Withdrawal of complaint.--The person instituting summary proceedings for a violation of this section or his or her superior commissioned officer may withdraw the complaint if the accused executes a military service participation agreement and pays all costs as described in subsection (e).

(h) Military counsel.--Military counsel shall not be assigned to represent the Commonwealth or the accused in summary proceedings brought under this section.

(i) Prima facie evidence.--An extract from official military records showing that the accused person was absent without leave as defined in subsection (a) shall constitute prima facie evidence of a violation of this section.

(j) Limitations on proceedings.--No action may be commenced for a violation of this section more than 12 months after the last date on which the person is alleged to have been absent without leave. No court-martial or nonjudicial punishment proceedings for absence without leave under this part may be instituted against a person who has been charged with the summary offense of absence without leave for the same time period. No summary offense proceedings for absence without leave under this section may be instituted against a person who has been the subject of court-martial or nonjudicial punishment for absence without leave under this part for the same time period.

§ 6011. Missing movement.

Any person subject to this part who through neglect or design misses the movement of a ship, aircraft or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

§ 6012. Contempt toward officials.

Any commissioned officer who uses contemptuous words against the President of the United States, Vice President of the United States, Congress, Secretary of Defense, secretary of a military department, Secretary of Homeland Security, Governor of the Commonwealth of Pennsylvania, Adjutant General of the Commonwealth of Pennsylvania or General Assembly of the Commonwealth of Pennsylvania shall be punished as a court-martial may direct.

§ 6013. Disrespect toward superior commissioned officer.

Any person subject to this part who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

§ 6014. Assaulting or willfully disobeying superior commissioned officer.

Any person subject to this part who:

(1) strikes, draws or lifts up any weapon or offers any violence against his superior commissioned officer while he is in the execution of his office; or

(2) willfully disobeys a lawful command of his superior commissioned officer;

shall be punished, if the offense is committed in time of war, by confinement of not more than five years or such other punishment as a court-martial may direct. If the offense is

committed at any other time, the person shall be punished as a court-martial may direct.

§ 6015. Insubordinate conduct toward warrant officer, noncommissioned officer or petty officer.

Any warrant officer or enlisted member who:

(1) strikes or assaults a warrant officer, noncommissioned officer or petty officer while that officer is in the execution of his office;

(2) willfully disobeys the lawful order of a warrant officer, noncommissioned officer or petty officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer or petty officer while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

§ 6016. Failure to obey order or regulation.

Any person subject to this part who:

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the State military forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

§ 6017. Cruelty and maltreatment.

Any person subject to this part who is guilty of cruelty toward or oppression or maltreatment of any person subject to his orders shall be punished as a court-martial may direct.

§ 6018. Mutiny or sedition.

(a) Offense defined.--Any person subject to this part who:

(1) with intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence or other disturbance against that authority is guilty of sedition; or

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place;

is guilty of a failure to suppress or report a mutiny or sedition.

(b) Punishment.--A person who is found guilty of attempted mutiny, mutiny, sedition or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

Cross References. Section 6018 is referred to in section 6006 of this title.

§ 6019. Resistance, flight, breach of arrest and escape.

Any person subject to this part who resists apprehension, flees from apprehension, breaks arrest or escapes from custody or confinement shall be punished as a court-marital may direct.

§ 6020. Releasing prisoner without proper authority.

Any person subject to this part who, without proper authority, releases any prisoner committed to his charge or who, through neglect or design, suffers any such prisoner to escape shall be punished as a court-martial may direct, whether

or not the prisoner was committed in strict compliance with law.

§ 6021. Unlawful detention of another.

Any person subject to this part who, except as provided by law or regulation, apprehends, arrests or confines any person shall be punished as a court-martial may direct.

§ 6022. Noncompliance with procedural rules.

Any person subject to this part who:

(1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this part; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this part regulating the proceedings before, during or after trial of an accused;

shall be punished as a court-martial may direct.

§ 6023. Misbehavior before enemy.

Any person subject to this part who, before or in the presence of the enemy:

(1) runs away;

(2) shamefully abandons, surrenders or delivers up any command, unit, place or military property which it is his duty to defend;

(3) through disobedience, neglect or intentional misconduct endangers the safety of any such command, unit, place or military property;

(4) casts away his arms or ammunition;

(5) is guilty of cowardly conduct;

(6) quits his place of duty to plunder or pillage;

(7) causes false alarms in any command, unit or place under control of the armed forces of the United States or the State military forces;

(8) willfully fails to do his utmost to encounter, engage, capture or destroy any enemy troops, combatants, vessels, aircraft or any other thing, which it is his duty so to encounter, engage, capture or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels or aircraft of the armed forces belonging to the United States or their allies, to the Commonwealth or to any other state, when engaged in battle;

shall be punished as a court-martial may direct.

Cross References. Section 6023 is referred to in section 6006 of this title.

§ 6024. Subordinate compelling surrender.

Any person subject to this part who compels or attempts to compel a commander of any place, vessel, aircraft or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it or who strikes the colors or flag to an enemy without proper authority shall be punished as a court-martial may direct.

§ 6025. Improper use of countersign.

Any person subject to this part who, in time of war or national emergency, discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give shall be punished as a court-martial may direct.

§ 6026. Forcing a safeguard.

Any person subject to this part who forces a safeguard shall be punished as a court-martial may direct.

§ 6027. Captured or abandoned property.

(a) Duty to secure property.--All persons subject to this part shall secure all public property taken for the service of the United States or the Commonwealth and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody or control.

(b) Offense.--Any person subject to this part who:

(1) fails to carry out the duties prescribed in subsection (a);

(2) buys, sells, trades or in any way deals in or disposes of taken, captured or abandoned property, whereby he receives or expects any profit, benefit or advantage to himself or another directly or indirectly connected with himself; or

(3) engages in looting or pillaging;

shall be punished as a court-martial may direct.

§ 6028. Aiding the enemy.

Any person subject to this part who:

(1) aids or attempts to aid the enemy with arms, ammunition, supplies, money or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall be punished as a court-martial may direct.

§ 6029. Misconduct of prisoner.

Any person subject to this part who, while in the hands of the enemy in time of war:

(1) for the purpose of securing favorable treatment by his captors, acts without proper authority in a manner contrary to law, custom or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) while in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

§ 6030. False official statements.

Any person subject to this part who, with intent to deceive, signs any false record, return, regulation, order or other official document made in the line of duty knowing the same to be false or makes any other false official statement made in the line of duty knowing the same to be false shall be punished as a court-martial may direct.

§ 6031. Loss, damage, destruction or wrongful disposition of military property.

Any person subject to this part who, without proper authority:

(1) sells or otherwise disposes of;

(2) willfully or through neglect damages, destroys or loses; or

(3) willfully or through neglect suffers to be lost, damaged, destroyed, sold or wrongfully disposed of;

any military property of the United States or of the Commonwealth or any other state shall be punished as a court-martial may direct.

§ 6032. Waste, spoilage or destruction of nonmilitary property.

Any person subject to this part who willfully or recklessly wastes, spoils or otherwise willfully and wrongfully destroys or damages any property other than military property belonging to the United States, the Commonwealth or any other state shall be punished as a court-martial may direct.

§ 6033. Improper hazarding of vessel.

(a) Willful conduct.--Any person subject to this part who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or the State military forces shall be punished as a court-martial may direct.

(b) Negligent conduct.--Any person subject to this part who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or the State military forces shall be punished as a court-martial may direct.

§ 6034. Drunken or reckless driving.

Any person subject to this part who, while in a duty status or while on a military installation, operates any vehicle while drunk or in a reckless or wanton manner shall be punished as a court-martial may direct.

§ 6035. Drunk on duty, sleeping on post and leaving post before relief.

(a) General rule.--Except as provided in subsection (b), any person subject to this part who is found drunk on duty, sleeping on his post or who leaves his post before being relieved shall be punished as a court-martial may direct.

(b) Sentinel or look-out.--Any sentinel or look-out who is found drunk on duty, sleeping on his post or who leaves his post before being relieved shall be punished, if the offense is committed in time of war, by confinement of not more than five years or by other punishment as a court-martial may direct. If the offense is committed at any other time, the person shall be punished as a court-martial may direct.

§ 6036. Dueling.

Any person subject to this part who fights, promotes, is concerned in or connives at fighting a duel or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority shall be punished as a court-martial may direct.

§ 6037. Malingering.

Any person subject to this part who, for the purpose of avoiding work, duty or service in the State military forces:

(1) feigns illness, physical disablement, mental lapse or derangement; or

(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

§ 6038. Riot or breach of peace.

Any person subject to this part who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

§ 6039. Provoking speeches or gestures.

Any person subject to this part who uses provoking or reproachful words or gestures towards any other person subject to this part shall be punished as a court-martial may direct.

§ 6040. Perjury.

Any person subject to this part who, in a judicial proceeding, in a course of justice conducted under this part or in any administrative proceeding conducted by the State military forces under military regulations, willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

§ 6041. Frauds against government.

Any person subject to this part:

(1) who, knowing it to be false or fraudulent:

(i) makes any claim against the United States, the Commonwealth or any officer thereof; or

(ii) presents to any person in the civil or military service thereof for approval or payment any claim against the United States, the Commonwealth or any officer thereof;

(2) who, for the purpose of obtaining the approval, allowance or payment of any claim against the United States, the Commonwealth or any officer thereof:

(i) makes or uses any writing or other paper knowing the same to contain any false or fraudulent statements;

(ii) makes any oath, affirmation or certification to any fact or to any writing or other paper knowing the oath, affirmation or certification to be false; or

(iii) forges or counterfeits any signature upon any writing or other paper or uses any such signature knowing it to be forged or counterfeited;

(3) who, having charge, possession, custody or control of any money or other property of the United States or the Commonwealth furnished or intended for the armed forces of the United States or the State military forces, knowingly delivers to any person having authority to receive the same any amount thereof less than that for which he receives a certificate or receipt; or

(4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the Commonwealth, furnished or intended for the armed forces of the United States or the State military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the Commonwealth;

shall, upon conviction, be punished as a court-martial may direct.

§ 6042. Larceny and wrongful appropriation.

(a) Offenses defined.--Any person subject to this part who, while in a duty status, wrongfully takes, obtains or withholds by any means whatever from the possession of the true owner or of any other person any money, personal property or article of value of any kind:

(1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate the same to his own use or the use of any person other than the true owner, steals such property and is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate the same to his own use or the use of any person other than the true owner, is guilty of wrongful appropriation.

(b) Punishment.--Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

§ 6043. Assault.

Any person subject to this part who, while in a duty status, attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

§ 6044. Conduct unbecoming an officer and a gentleman.

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

§ 6045. General article.

Though not specifically described in this part, a person subject to this title who engages in any disorder and neglect to the prejudice of good order and discipline in the State military forces or who engages in any conduct of a nature to bring discredit upon the State military forces shall be punished as a court-martial may direct. However, where an act or omission constitutes an offense that violates both this part and the criminal laws of the state where the offense occurs or criminal laws of the United States, jurisdiction of the military court will be determined in accordance with section 5104 (relating to subject matter jurisdiction).

§ 6046. Embezzlement.

Any person subject to this part who shall, while in a duty status, embezzle, misapply or convert to his own use, without authority, any moneys received by or entrusted to him for disbursement or articles of military equipment shall be punished as a court-martial may direct.

§ 6047. Purchasing and receiving military property in pawn.

Any person subject to this part who knowingly and willfully sells, purchases or receives in pawn or pledge any military property of the Commonwealth of Pennsylvania or of the United States in use by the Commonwealth shall be punished as a court-martial may direct.

§ 6048. Wrongful use and possession of controlled substances.

(a) General rule.--Any person subject to this title who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States or introduces into an installation, vessel, vehicle or aircraft used by or under the control of the armed forces of the United States or the State military forces a controlled substance shall be punished as a court-martial may direct.

(b) Definition.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Controlled substance." The term means:

(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid and marijuana and any compound or derivative of any such substance.

(2) Any substance not specified in paragraph (1) that is listed on a schedule of controlled substances prescribed by the President of the United States for the purposes of the Uniform Code of Military Justice (10 U.S.C. § 801 et seq.) of the armed forces of the United States.

(3) Any other substance not specified in paragraph (1) or contained on a list prescribed by the President of the United States under paragraph (2) that is listed in schedules I, II, III, IV and V of section 202 of the Controlled Substances Act (Public Law 91-513, 84 Stat. 1236).

CHAPTER 61
MISCELLANEOUS PROVISIONS

Sec.

6101. Courts of inquiry.
6102. Authority to administer oaths and to act as notary.
6103. Text of part to be available.
6104. Complaints of wrongs.
6105. Redress of damages to property.
6106. Execution of process and sentence.

6107. Disposition of fines and penalties.
6108. Liability of public officers for nonexecution of process.
6109. Compensation of court.
6110. Immunity for action of military courts.
6111. Delegation of authority by Governor and Adjutant General.
6112. Uniformity of interpretation.
6113. State Military Justice Fund.

Enactment. Chapter 61 was added October 24, 2012, P.L.1506, No.192, effective in one year.

Prior Provisions . Former Chapter 61, which related to the same subject matter, was added August 1, 1975, P.L.185, No.91, and repealed October 24, 2012, P.L.1506, No.192, effective in one year.

§ 6101. Courts of inquiry.

(a) Who may convene.--Courts of inquiry to investigate any matter of concern to the State military forces may be convened by any person authorized to convene a general court-martial, whether or not the persons involved have requested such an inquiry.

(b) Composition.--A court of inquiry consists of three or more commissioned officers. For each court of inquiry, the convening authority shall also appoint counsel for the court.

(c) Parties.--Any person subject to this part whose conduct is subject to inquiry shall be designated as a party. Any person subject to this part who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses and to introduce evidence.

(d) Challenging member.--Members of a court of inquiry may be challenged by a party but only for cause stated to the court.

(e) Oath or affirmation.--The members, counsel, reporters and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(f) Witnesses.--Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Findings and recommendations.--Courts of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.

(h) Record.--Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

§ 6102. Authority to administer oaths and to act as notary.

(a) Military administration and justice.--The following members of the State military forces may administer oaths for the purposes of military administration, including military justice:

(1) All judge advocates, including the State Judge Advocate.

(2) All summary courts-martial.

(3) All adjutants, assistant adjutants, acting adjutants and personnel adjutants.

(4) All other persons designated by law or by regulations of the State military forces or the armed forces of the United States.

(b) Performance of particular duties.--The following persons may administer oaths necessary in the performance of their duties:

(1) The president, military judge and trial counsel for all general and special courts-martial.

(2) The president and the counsel for the court of any court of inquiry.

(3) All officers designated to take a deposition.

(4) All persons detailed to conduct an investigation.

(5) All recruiting officers.

(6) All other persons designated by law or by regulations of the State military forces or the armed forces of the United States.

(c) Evidence of authority.--The signature without seal of any such person, together with the title of his office, is prima facie evidence of the person's authority.

§ 6103. Text of part to be available.

(a) Explanation of certain provisions.--Provisions of this part specifically designated by regulation as required to be explained to enlisted members shall be carefully explained to each enlisted member at the time of or within 30 days after the member's initial entry into the State military forces and at such periodic briefings as shall be required by regulation.

(b) Availability of text.--A complete text of this part and of the regulations prescribed by the Governor, Adjutant General or department shall be made available to members of the State military forces, upon request.

§ 6104. Complaints of wrongs.

Any member of the State military forces who believes himself wronged by a commanding officer and who, upon due application to that commanding officer, is refused redress may complain to any superior commissioned officer who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine the complaint and take proper measures for redressing the wrong. The officer shall, as soon as possible, send to the Adjutant General a statement of the complaint, with a statement of the measures taken to address the wrong.

§ 6105. Redress of damages to property.

(a) Assessment of damages.--Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the State military forces, that person may, subject to such regulations as the Governor or department may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and shall have for the purpose of that investigation power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and the amount approved by that officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for payment to the injured parties of the damages assessed and approved.

(b) Offender not known.--If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

§ 6106. Execution of process and sentence.

The processes and sentences of courts-martial of the State military forces shall be executed by the civil officers prescribed by the laws of this Commonwealth or by the officers of the State military forces as the circumstances may require. Fees for serving processes provided for in this part shall be the same as prescribed by law for similar processes of a civil nature and shall, upon proper vouchers being filed, be paid by the Adjutant General in the usual manner.

§ 6107. Disposition of fines and penalties.

(a) Military court or nonjudicial punishment.--Fines imposed by a military court or through imposition of nonjudicial punishment may be paid to the Commonwealth and delivered to the court or imposing officer or to a person executing their process. Fines may be collected in the following manner:

(1) By cash or money order.

(2) By retention of any pay or allowances due or to become due to the person fined.

(3) By garnishment or levy, together with costs, on the wages, goods and chattels of a person delinquent in paying a fine, as provided by law.

(b) Court-martial.--All fines and penalties imposed and collected through the sentence of courts-martial shall be forwarded to the Adjutant General, who shall deposit the same in the State Military Justice Fund of the State Treasury.

§ 6108. Liability of public officers for nonexecution of process.

The neglect or refusal of any sheriff, constable, peace officer or jail warden to execute any process, to make proper return of all fines and penalties collected or to receive into custody any prisoner shall be deemed a misdemeanor and shall subject the offender to a prosecution by the proper district attorney and to a penalty, upon conviction of each such offense, of $1,000 to the use of the Commonwealth.

§ 6109. Compensation of court.

(a) Judges, counsel and members of courts.--Military judges, military counsel and members of courts-martial and courts of inquiry shall be allowed transportation and per diem pay as per military grade for time actually employed in the duties assigned them. Transportation shall be furnished to all prosecutors, prisoners, witnesses, sheriffs, peace officers and constables to and from the place or places designated for the meetings of said courts. The per diem pay for military and civilian witnesses shall be the same as in civil courts of law. The fees of sheriffs, peace officers and constables for serving the processes provided for in this part shall be the same as prescribed by law for similar processes of a civil nature and shall, upon proper vouchers being filed, be paid by the Adjutant General in the usual manner.

(b) Witnesses.--The fees and authorized travel expenses of all witnesses, experts, victims, court reporters and interpreters, as well as fees for the service of process, the costs of collection, apprehension, detention and confinement, and all other necessary expenses of prosecution and the

administration of military justice not otherwise payable by any other source, shall be paid out of the State Military Justice Fund of the State Treasury.

§ 6110. Immunity for action of military courts.

No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

§ 6111. Delegation of authority by Governor and Adjutant General.

The Governor or Adjutant General may delegate any authority vested in him under this part and provide for the subdelegation of any such authority, except the power given the Governor by section 5406 (relating to sentences of dismissal, dishonorable discharge or bad conduct to be approved by Governor).

§ 6112. Uniformity of interpretation.

This part shall be so construed as to, so far as practical, make this law uniform with the law of the United States, especially as embodied in the Uniform Code of Military Justice.

§ 6113. State Military Justice Fund.

There is hereby established in the State Treasury a special nonlapsing fund designated as the State Military Justice Fund. Expenditures from the fund shall be administered by the Adjutant General. The fund shall be used to pay expenses incurred in the administration of military justice. All fines, penalties, fees and other moneys paid to the Commonwealth under this part shall be deposited in the fund. The General Assembly may appropriate and have deposited in the fund such funds as it deems necessary to carry out the purposes of this part.

PART V
EMPLOYMENT PREFERENCES AND PENSIONS

Chapter

71. Veterans' Preference
72. Voluntary Veterans' Preference in Private Employment
73. Military Leave of Absence
75. Professional and Occupational Licenses
77. Veterans' Pensions and Benefits
79. Veterans' Litigation Awards

Enactment. Part V was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

CHAPTER 71
VETERANS' PREFERENCE

Sec.

7101. Soldier defined.
7102. Credits in civil service examinations.
7103. Additional points in grading civil service examinations.
7104. Preference in appointment or promotion.
7105. Lack of training, age or physical impairment.
7106. Preferential rating provision in public works specifications.
7107. Computation of seniority for reduction in force.
7108. Preference of spouses.

7109. Law exclusive.

Enactment. Chapter 71 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Cross References. Chapter 71 is referred to in section 1184 of Title 8 (Boroughs and Incorporated Towns); section 14405.1 of Title 11 (Cities).

§ 7101. Soldier defined.

As used in this chapter, "soldier" means a person who served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, during any war or armed conflict in which the United States engaged and who was released from active duty under honorable conditions, other than from periods of active duty for training, or with an honorable discharge from such service, or a person who so served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, since July 27, 1953, including service in Vietnam, and who has an honorable discharge from such service. Qualifying periods of service during a war or armed conflict, for purposes of this provision, will be designated by the Department of Military and Veterans Affairs.

(Nov. 30, 2004, P.L.1552, No.195, eff. imd.)

§ 7102. Credits in civil service examinations.

(a) General rule.--When any soldier shall take any civil service appointment or promotional examination for a public position under the Commonwealth, or under any political subdivision thereof, he shall be given credit in the manner hereinafter provided; for the discipline and experience represented by his military training and for the loyalty and public spirit demonstrated by his service for the preservation of his country, as provided in this chapter.

(b) Disclosure of rank or serial number.--No soldier taking any civil service appointment or promotional examination shall be required to furnish, nor shall he furnish in connection therewith, his former rank or service serial number.

§ 7103. Additional points in grading civil service examinations.

(a) Commonwealth examinations.--Whenever any soldier shall successfully pass a civil service appointment or promotional examination for a public position under this Commonwealth, or any political subdivision thereof, and shall thus establish that he possesses the qualifications required by law for appointment to or promotion in such public position, such soldier's examination shall be marked or graded an additional ten points above the mark or grade credited for the examination, and the total mark or grade thus obtained shall represent the final mark or grade of such soldier, and shall determine his standing on any eligible or promotional list, certified or furnished to the appointing or promoting power.

(b) Municipal examinations.--When any such person shall take any examination for appointment or promotion in the civil service of any of the various municipal agencies within this Commonwealth, as required by any existing law or any law which may hereafter be enacted, such person's examination shall be marked or graded 15% perfect before the quality or contents of the examination shall be considered. When the examination of any such person is completed and graded, such grading or percentage as the examination merits shall be added to the aforesaid 15%, and such total mark or grade shall represent the final grade or classification of such person and shall determine his or her order of standing on the eligible list.

Cross References. Section 7103 is referred to in section 14405.1 of Title 11 (Cities); sections 2202, 3006 of Title 71 (State Government).

§ 7104. Preference in appointment or promotion.

(a) Non-civil service.--Whenever any soldier possesses the requisite qualifications and is eligible to appointment to or promotion in a public position, where no such civil service examination is required, the appointing power in making an appointment or promotion to a public position shall give preference to such soldier.

(b) Name on civil service list.--Whenever any soldier possesses the requisite qualifications, and his name appears on any eligible or promotional list, certified or furnished as the result of any such civil service examination, the appointing or promoting power in making an appointment or promotion to a public position shall give preference to such soldier, notwithstanding that his name does not stand highest on the eligible or promotional list.

(c) Name not on civil service list.--In making an appointment or promotion to public office where a civil service examination is required, the appointing or promotional power may give preference to any soldier, who has passed the required examination for appointment or promotion to such position, and possesses the requisite qualifications, although his name does not appear on the eligible or promotional list certified or furnished to the appointing or promoting power.

§ 7105. Lack of training, age or physical impairment.

The lack of academic or scholastic training or experience, age, loss of limb or other physical impairment which does not in fact incapacitate any such soldier shall not be deemed to disqualify him, provided he possesses the other requisite qualifications to satisfactorily perform all of the duties which the position requires.

§ 7106. Preferential rating provision in public works specifications.

Whenever the Commonwealth issues specifications for the construction, alteration or repair of any public works, such specifications shall include a provision under which the contractors and subcontractors shall agree to give a preferential rating similar to that given by the Commonwealth to any soldier making application for employment upon such public works.

§ 7107. Computation of seniority for reduction in force.

Whenever a reduction in force is necessary in any public position, or on public works of the Commonwealth and its political subdivisions, and personnel are discharged according to seniority, the number of years of service of any soldier shall be determined by adding his total years of service in the civil service or on public works to his total years of service as a member of the armed forces of the United States, or in any women's organization officially connected therewith during any war in which the United States engaged.

§ 7108. Preference of spouses.

The same preferential rating given to soldiers under the provisions of this chapter shall be extended to include the spouses of deceased or disabled soldiers.

(Oct. 4, 1978, P.L.909, No.173, eff. 60 days)

Cross References. Section 7108 is referred to in sections 2202, 3006 of Title 71 (State Government).

§ 7109. Law exclusive.

This chapter shall be construed as being the exclusive law applying to the Commonwealth, and its political subdivisions, in giving preference to soldiers in appointment or promotion to, or retention in, public position or on public works.

CHAPTER 72
VOLUNTARY VETERANS' PREFERENCE IN PRIVATE EMPLOYMENT

Sec.

7201. Scope of chapter.
7202. Definitions.
7203. Veterans' preference private employment policy.
7204. Eligibility for preference.
7205. Nonviolation of equal opportunity laws.

Enactment. Chapter 72 was added November 3, 2016, P.L.1053, No.135, effective in 60 days.

§ 7201. Scope of chapter.

This chapter relates to private employer's veterans' preference policies.

§ 7202. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"DD-214." A United States Department of Defense Report of Separation Form 214 or a similarly effective form issued by the Department of Defense relating to separation from military service.

"Private employer." A sole proprietor, corporation, partnership, limited liability company or any other legal entity, including nonprofits, with more than one employee.

"Soldier." A person who served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, during any war or armed conflict in which the United States engaged and who was released from active duty under honorable conditions, other than from periods of active duty for training, or with an honorable discharge from such service, or a person who so served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, since July 27, 1953, including service in Vietnam, and who has an honorable discharge from such service. Qualifying periods of service during a war or armed conflict, for purposes of this definition, will be designated by the Department of Military and Veterans Affairs.

"Spouse of a disabled veteran." The spouse of a veteran who has been classified by the United States Department of Veterans Affairs' Veterans Benefits Administration as having a permanent total disability and is a United States citizen.

"Surviving spouse." A spouse of a deceased soldier.

"Veteran." An individual who has served in the armed forces of the United States, including a reserve component and National Guard, and who has been discharged or released from the service under conditions other than dishonorable.

"Veterans' preference employment policy." A voluntary policy adopted by a private employer for hiring, promoting or retaining a veteran, a spouse of a disabled veteran or a surviving spouse over another qualified applicant or employee.

§ 7203. Veterans' preference private employment policy.

(a) Authority.--A private employer may adopt and apply a veterans' preference employment policy.

(b) Policy.--A veterans' preference employment policy shall:

(1) be in writing;

(2) require the inclusion of a statement in any job posting that indicates that the employer has and applies a veterans' preference employment policy;

(3) be provided to the applicant at time of hiring and provided to all employees on an annual basis; and

(4) be applied uniformly to employment decisions regarding:

(i) the hiring of new applicants;

(ii) the promotion of current employees; and

(iii) the retention of employees during a reduction in the work force.

§ 7204. Eligibility for preference.

A veteran, spouse of a disabled veteran or surviving spouse shall submit the DD-214 of the veteran to a private employer with a veterans' preference employment policy for consideration by the employer.

§ 7205. Nonviolation of equal opportunity laws.

A voluntary veterans' preference employment policy adopted and applied in accordance with this chapter shall not be considered a violation of any State or local equal employment opportunity law.

CHAPTER 73
MILITARY LEAVE OF ABSENCE

Sec.

7301. Definitions.
7302. Granting military leaves of absence.
7303. Expiration of military leaves of absence.
7304. Reemployment rights.
7305. Seniority rights.
7306. Retirement rights.
7307. Eligibility.
7308. Loss of benefits.
7309. Employment discrimination for military membership or duty.
7310. Contract by minors for servicemen's readjustment loans.
7311. Sale of real property for delinquent taxes and municipal claims.
7312. Stay of eviction or distress during military service.
7313. Educational leave of absence.
7314. Stay of proceedings when military service affects conduct thereof.
7315. Termination of leases and similar obligations by military personnel.
7315.1. Early termination of housing rental agreement by military personnel.
7316. Maximum rates of interest and scheduling of debts.
7317. Deferred motor vehicle insurance coverage.
7318. Unemployment compensation benefits.
7319. Military family relief assistance (Expired).

Enactment. Chapter 73 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Cross References. Chapter 73 is referred to in section 702 of this title; sections 8102, 8302 of Title 24 (Education); sections 5302, 5304 of Title 71 (State Government).

§ 7301. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Active military service." Active service in any of the armed services or forces of the United States or of this Commonwealth.

"Be drafted." To be drafted, to be ordered into active military service if a member of a reserve component of the armed forces, or in any way to enter involuntarily, or remain in active military service, or to enter voluntarily into active military service for such period as is necessary to satisfy one's draft obligation.

"Employee." Any appointed officer or employee regularly employed by the Commonwealth, in its civil service or otherwise, or by any department, board, bureau, commission, authority, agency or office thereof, or by any political subdivision or local authority of the Commonwealth, but shall not mean any employee of any school district or vocational school district.

"Enlist." To enlist, enroll, reenlist, or in any way voluntarily to enter or remain in active military service.

"Reserve component of the armed forces." The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania National Guard and Pennsylvania Air National Guard.

Cross References. Section 7301 is referred to in section 8302 of Title 24 (Education); section 2707.2 of Title 30 (Fish); section 2706 of Title 34 (Game); section 5302 of Title 71 (State Government); sections 1361, 1364 of Title 75 (Vehicles).

§ 7302. Granting military leaves of absence.

(a) Enlistment or draft.--Whenever any employee shall, in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, enlist or shall, at any time, be drafted into the active military service of the United States, he shall be automatically granted a military leave of absence. So long as an employee is on military leave of absence, he shall not be removed from his employment and his duties shall either be performed by other employees or by a temporary substitute. During such time he may receive remuneration from his civilian employer.

(b) Reserve components.--Whenever any employee who is a member of a reserve component of the armed forces shall be called or ordered to active duty by the United States and whenever any employee who is a member of the Pennsylvania National Guard shall be ordered to active State duty or special State duty by the Governor or his designee, he shall automatically be granted a military leave of absence.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.; Nov. 22, 2000, P.L.670, No.90, eff. imd.)

Cross References. Section 7302 is referred to in sections 5102, 5902, 5906 of Title 71 (State Government).

§ 7303. Expiration of military leaves of absence.

(a) Employees who enlisted.--Every military leave of absence granted to an employee by reason of his enlistment in the active military service in time of war or armed conflict, or emergency proclaimed by the Governor or by the President of the United States, shall expire 90 days after the expiration of the first period of his enlistment to expire at a time when the United States is not engaged in a war or armed conflict or emergency

proclaimed by the Governor or by the President of the United States.

(b) Employees who were drafted.--Every military leave of absence granted to an employee by reason of his having been drafted shall expire 90 days after the expiration of the period for which he was drafted.

(c) Employees who were members of reserve components.--Every military leave of absence granted to an employee by reason of his having been called or ordered to military duty as a member of a reserve component of the armed forces of the United States shall expire 90 days after the expiration of the period of the military duty. Every military leave of absence granted to an employee by reason of his having been ordered to active State duty or special State duty as a member of the Pennsylvania National Guard shall expire 30 days after the expiration of the period of the State duty.

(Dec. 17, 1990, P.L.700, No.174, eff. imd.)

1990 Amendment. Act 174 added subsec. (c), retroactive to August 1, 1990.

§ 7304. Reemployment rights.

Every employee shall have the right to return to his employment at any time prior to the expiration of his military leave of absence upon notifying his employer of his desire and availability so to return.

Cross References. Section 7304 is referred to in section 7305 of this title.

§ 7305. Seniority rights.

Every employee who returns to his employment at the time of or prior to the expiration of his military leave of absence shall be restored as provided in section 7304 (relating to reemployment rights) in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

§ 7306. Retirement rights.

(a) Options available to employees.--Any employee who is a member of a retirement system other than an active member or inactive member on leave without pay of the State Employees' Retirement System, an active participant or inactive participant on leave without pay of the State Employees' Defined Contribution Plan, an active or inactive member of the Public School Employees' Retirement System or an active or inactive participant of the School Employees' Defined Contribution Plan at the time he is granted a military leave of absence shall be entitled to exercise any one of the following options in regard thereto:

(1) He may continue to make regular payments into the fund during the period of his military leave of absence. The amount of such payments shall be the same as they would have been, had he not been granted a military leave of absence, but had instead remained actively in his employment. The time of making such payments shall be mutually agreed upon by the employee and the retirement association of which he is a member, but in no event shall be less frequent than semiannually. The employer shall make its contributions on the same basis as is used to compute the employee's contributions. In this case, his retirement rights shall be determined on the basis that he was in the active, continuous

and uninterrupted employ of his employer for the period during which he was on military leave of absence.

(2) He may discontinue making payments into the fund during the period of his military leave of absence. In such event, the employer shall also discontinue making its contributions during this period. In this case, his retirement rights shall be determined by completely disregarding the period of his military leave of absence for all purposes.

(b) Exercise of options.--Any employee, desiring to exercise option (1) in subsection (a), shall so signify, in writing, to the retirement association of which he is a member within 60 days after the commencement of his military leave of absence or within 60 days after the effective date of this chapter, whichever shall later occur. Any employee who does not exercise option (1) in this manner will be deemed to have exercised option (2).

(c) Change of option.--Any employee who has exercised option (2) in subsection (a), but who, upon the expiration of his military leave of absence, returns to his employment and desires to receive the benefits of option (1), shall have the right to receive such benefits if he shall comply with the following requirements:

(1) He shall, within six months after he returns to his employment, give written notice to the retirement association of which he is a member of his desire to receive the benefits of option (1).

(2) He shall pay into the retirement fund an amount equal to the total payments he would have made had he exercised option (1). Payment of such amount may be spread over a period of time agreeable to the retirement association and the employee, which in no event shall exceed a period commencing with the date he returned to his employment and equal in duration to the duration of his military leave of absence. Such agreed upon payments shall be made in the same manner as his regular payments into the fund are made. In this case, his employer shall pay into the fund an amount equal to the total payments it would have made had the employee exercised option (1). Payment of such amount by the employer shall be spread over the same time as the employee's payments.

(d) Members of State Employees' Retirement System.--An employee who is an active member or inactive member on leave without pay of the State Employees' Retirement System at the time he is granted a military leave of absence shall be entitled to receive credit in the State Employees' Retirement System for the leave as provided in 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

(e) Members of Public School Employees' Retirement System.--An employee who is an active member or inactive member of the Public School Employees' Retirement System at the time he is granted a military leave of absence shall be entitled to receive credit in the Public School Employees' Retirement System for the leave as provided under 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

(f) Participant of a defined contribution plan.--

(1) (Reserved).

(2) An employee who is an active participant or inactive participant on leave without pay of the State Employees' Defined Contribution Plan at the time the employee is granted a military leave of absence shall be entitled to make

contributions to the State Employees' Defined Contribution Trust for the leave as provided by 71 Pa.C.S. Pt. XXV.
(Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 amended subsec. (a) intro. par. and added subsec. (f). See section 401 of Act 5 in the appendix to this title for special provisions relating to applicability.

2013 Amendment. Act 32 amended subsec. (a) and added subsec. (e). See sections 13 and 20 of Act 32 in the appendix to this title for special provisions relating to applicability and qualifications under Internal Revenue Code of 1986.

2012 Amendment. Act 181 amended subsec. (a) and added subsec. (d). See sections 12(1) and 20 of Act 181 in the appendix to this title for special provisions relating to applicability and requirements for qualification as qualified pension plan.

Cross References. Section 7306 is referred to in section 7308 of this title; section 8302 of Title 24 (Education); section 5302 of Title 71 (State Government).

§ 7307. Eligibility.

Every employee otherwise eligible for a military leave of absence shall be granted a military leave of absence commencing upon the date of his eligibility therefor, regardless of whether such date occurred before or after the effective date of this chapter.

§ 7308. Loss of benefits.

Any employee who is separated from the service by an undesirable, bad conduct or dishonorable discharge shall not be entitled to any of the benefits of this chapter, except such vested rights as he may have acquired prior thereto by virtue of payments made pursuant to his exercise of option (1) of section 7306 (relating to retirement rights).

§ 7309. Employment discrimination for military membership or duty.

(a) General rule.--It is unlawful for the Commonwealth or any of its departments, boards, commissions, agencies or any political subdivision, or for any private employer, to refuse to hire or employ any individual not on extended active duty because of his membership in the National Guard or any one of the other reserve components of the armed forces of the United States, or because he is called or ordered to active State duty or special State duty by the Governor during an emergency or as otherwise authorized by law, or because he is called or ordered to active duty by the Federal Government under provisions of 10 U.S.C. (relating to armed forces) or 32 U.S.C. (relating to National Guard), or to discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment because of such membership, or because he is called or ordered to active State duty by the Governor during an emergency or because he is called or ordered to other military duty authorized by law.

(b) Reemployment following emergency or other military duty.--Upon the completion of such emergency or other military duty any such member of the Pennsylvania National Guard or any other reserve component of the armed forces of the United States shall be restored by such public or private employer or his successor in interest to such position or to a position of like seniority, status and pay which such member held prior to such emergency or other military duty, but if any such member is not

qualified to perform the duties of such position by reason of disability sustained during such emergency or other military duty but qualified to perform the duties of any other position in the employ of such private employer or his successor in interest, such member shall be restored to such other position, the duties of which he is qualified to perform, as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of the case, unless such public or private employer's or his successor in interests, circumstances have so changed as to make it impossible or unreasonable to do so.

(c) Extension of benefits during military duty.--Whenever a member of the Pennsylvania National Guard is called or ordered into active Federal service or active State duty under orders authorized by law or a member of any reserve component is called or ordered onto active duty, other than active duty for training, the public or private employer of the member shall, at no cost to the member, continue health insurance and other benefits in effect for at least the first 30 days of the military duty. After the expiration of the first 30 days, the public or private employer shall give the member of the National Guard or other reserve component the voluntary option of continuing such health insurance and other benefits in effect at his own expense by paying for the insurance or benefits at the same rates paid by the employer, and the insurance coverage shall continue, except for injuries incurred in the line of military duty.

(d) Termination of certain health insurance benefits.--

(1) As used in this subsection, the term "eligible member" applies to full-time students who are eligible for health insurance coverage or ancillary service plans under their parents' health insurance policies when the students are:

(i) members of the Pennsylvania National Guard or any reserve component of the armed forces of the United States who are called or ordered to active duty, other than active duty for training, for a period of 30 or more consecutive days; or

(ii) members of the Pennsylvania National Guard ordered to active State duty, including duty under 35 Pa.C.S. Ch. 76 (relating to Emergency Management Assistance Compact), for a period of 30 or more consecutive days.

(2) As used in this subsection, the term "full-time student" shall have the same meaning set forth in Chapter 32 (relating to Educational Assistance Program).

(3) The eligibility for health insurance coverage or ancillary service plans under a parent's health insurance policy for eligible members as defined in paragraph (1) shall be extended for a period equal to the duration of the eligible member's service on active duty or active State duty or until the eligible member is no longer a full-time student. The eligibility of an eligible member who is a full-time student for health insurance coverage or ancillary service plans under a parent's policy shall not terminate because of the age of the eligible member when the member's educational program was interrupted because of military duty.

(4) In order to qualify for this extension, the eligible member must:

(i) Submit a form approved by the Department of Military and Veterans Affairs notifying the insurer that the eligible member has been placed on active duty.

(ii) Submit a form approved by the Department of Military and Veterans Affairs notifying the insurer that the eligible member is no longer on active duty.

(iii) Submit a form approved by the Department of Military and Veterans Affairs showing that the student has reenrolled as a full-time student for the first term or semester starting 60 or more days after his or her release from active duty.

(5) The provisions of this subsection shall not apply to a health insurance policy or ancillary service plan that has been terminated.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Ancillary service plans." Any individual or group health insurance plan, subscriber contract or certificate that provides exclusive coverage for dental services or vision services.

"Health insurance policy." An individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:

(1) The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2) The act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

(3) The act of May 18, 1976 (P.L.123, No.54), known as the Individual Accident and Sickness Insurance Minimum Standards Act.

(4) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

(Dec. 17, 1990, P.L.700, No.174, eff. imd.; Dec. 22, 2005, P.L.443, No.83, eff. 60 days; Sept. 25, 2008, P.L.1068, No.85, eff. imd.)

2008 Amendment. Act 85 amended subsecs. (d) and (e).

§ 7310. Contract by minors for servicemen's readjustment loans.

(a) General rule.--Any minor, who is at least 17 years of age, and who is eligible for guaranty or insurance of a loan pursuant to the act of Congress known as the "Servicemen's Readjustment Act of 1944," as amended and supplemented, is hereby authorized and empowered, notwithstanding such minority, to enter into any contract in this Commonwealth, for any loan, or loans guaranteed by the United States, or any agency thereof, in accordance with the provisions of said act of Congress, as amended and supplemented, and the rules and regulations promulgated from time to time pursuant thereto; or any agency of the Commonwealth hereafter created; and such minor is also authorized and empowered to execute, and acknowledge, all documents, deeds, mortgages, and other or similar papers, necessary and incident to such contracts.

(b) Joinder by minor spouse.--The minor spouse of any person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, whether or not such person is a minor and regardless of the age of the spouse, is hereby authorized and empowered, notwithstanding such minority, to join in the execution of any such contract.

(c) Minority no basis for avoidance or defense.--In the event a person who is eligible for guaranty or insurance of a loan pursuant to said act of Congress, and who is a minor or whose spouse is a minor, or both, obtains such a loan, or loans, neither of them, despite any law or decision of any court to

the contrary, shall be permitted to avoid the contract of such loan or loans because of the age of either of them, nor shall either of them be permitted to interpose the defense that either of them is a minor in any action or actions based upon such contract, or contracts, or arising out of any loan or loans authorized herein.

(d) Liability of parent or representative.--The parent or parents, or guardian or guardians, or trustee or trustees of any minor shall not be liable in any way whatsoever because of or on account of such contract or contracts, or loan or loans, which may be entered into or joined in by such minor pursuant hereto, unless expressly a party thereto.

§ 7311. Sale of real property for delinquent taxes and municipal claims.

(a) Lien saved on stay of sale.--Whenever, pursuant to the provisions of the Federal Soldiers' and Sailors' Civil Relief Act of 1940 and the amendments thereto, a sale of any real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in military service, or his dependents, at the commencement of his period of military service and still so occupied by his dependents or employees, to enforce the collection of a delinquent tax or municipal claim, or the commencement of any proceeding or action for such purposes, is stayed by any court of record of this Commonwealth, the lien of the tax or of a tax or municipal claim affected thereby, shall not be lost.

(b) Sale and lien time limitations extended.--In all such cases the time fixed by statute for any such sale, or the commencement of any such proceeding or action, and the lien of the tax or the tax or municipal claim, is hereby extended for a period equal to the time during which the stay of the court was effective.

(c) Redemption period extended.--Whenever the real property, owned and occupied for dwelling, professional, business or agricultural purposes by a person in the military service, or his dependents, at the commencement of his military service and still so occupied by his dependents or employees, has been sold to enforce the collection of any tax or municipal claim, and such person in military service has the right to redeem the same, and the period of redemption shall expire at any time before the expiration of six months after the termination of the military service of such person, the period of redemption as to such real property shall be extended, and such person in military service shall have the right to redeem such property at any time not later than six months after the termination of the military service of such person.

§ 7312. Stay of eviction or distress during military service.

(a) General rule.--Whenever any member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States shall be called or ordered to active duty, other than active duty for training, or, in the case of members of the Pennsylvania National Guard, shall be called or ordered to active State duty, no eviction or distress shall be made of premises occupied chiefly for dwelling purposes by the member or any member of his family or other dependents, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

(b) Stay of proceedings.--On any such application or in any action brought pursuant to subsection (a), the court may, in its own discretion, on its own motion, and shall, on application of the member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, any

member of his family or dependent, stay the proceedings for six months unless, in the opinion of the court, the ability of the tenant to pay the agreed rent is not materially affected by reason of the military service. The court may make such other order as may be just under the circumstances, including an order temporarily adjusting the rental payments.

(c) Impacts on landlords.--When a stay of eviction is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to such relief as the court may determine just and equitable under the circumstances, including an order for the member to pay the arrearage in rent upon release from military duty to the extent and for such period as may appear to the court to be just.
(Dec. 17, 1990, P.L.700, No.174, eff. imd.)

1990 Amendment. Act 174 added section 7312, retroactive to August 1, 1990.

§ 7313. Educational leave of absence.

Whenever any member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States shall be called or ordered to active duty, other than active duty for training, including, in the case of members of the Pennsylvania National Guard, active State duty, the educational institution in which the member is enrolled shall grant the member or the member's spouse a military leave of absence from their education. The member or the member's spouse shall receive an "M" or "military" on their grade transcript for all classes they are unable to complete due to a military leave of absence. Members and spouses on military leave of absence from their educational institution shall be entitled, upon the member's release from military duty, to be restored to the educational status they had attained prior to the member's being ordered to military duty without loss of academic credits earned, scholarships or grants awarded or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the educational institution to refund tuition or fees paid or to credit the tuition and fees to the next semester or term after the termination of the educational military leave of absence at the option of the student.
(Dec. 17, 1990, P.L.700, No.174, eff. imd.; July 5, 2012, P.L.1090, No.128, eff. 60 days; June 18, 2014, P.L.745, No.59, eff. 60 days)

Cross References. Section 7313 is referred to in sections 3206, 3210.2 of this title.

§ 7314. Stay of proceedings when military service affects conduct thereof.

At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within 60 days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in the act of October 17, 1940, known as the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178, 50 U.S.C. app. § 501 et seq.), unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.
(Dec. 17, 1990, P.L.700, No.174, eff. imd.)

1990 Amendment. Act 174 added section 7314, retroactive to August 1, 1990.

§ 7315. Termination of leases and similar obligations by military personnel.

(a) Applicability.--This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) Leases which may be terminated.--A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection (a), or his agent or attorney-in-fact may terminate or cancel without cost, payment or penalty any lease for premises occupied or used by the member for dwelling, professional, business or agricultural purposes and any lease for an automobile, other motor vehicle, boat, aircraft, furniture, appliances, fixtures or other tangible personal property used by the member for personal, business, agricultural or other private use, provided the lease was executed by or on behalf of the member prior to the commencement of the period of active duty or State active duty and provided the lease was not intended as security under the definition of "security interest" in 13 Pa.C.S. § 1201 (relating to general definitions).

(c) Procedures for termination.--The member may terminate or cancel the lease by notice in writing delivered to the lessor or to the lessor's agent at any time following the beginning of the member's active duty or State active duty. Delivery of the notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor or the lessor's agent and depositing the notice in the United States mail. In the case of leases of premises or tangible personal property providing for monthly payments, termination of the lease shall be effective 30 days after the first date on which the next rental or lease payment is due and payable subsequent to the date when the notice is mailed or delivered. In the case of all other leases, termination shall be effective on the last day of the month following the month in which the notice is delivered or mailed, and, in such case, any rental paid in advance for a period after termination shall be refunded to the member by the lessor or his agent.

(d) Relief granted to lessor.--Upon application by the lessor to the appropriate court of common pleas prior to the termination provided for in this section, any relief granted by this section shall be subject to such modifications or restrictions as, in the opinion of the court, justice and equity may require in the circumstances. This section does not prohibit the forfeiture, in whole or in part, of a security or damage deposit paid by the member when the forfeiture is authorized by law and the lessor demonstrates that the forfeiture of the deposit is necessary to pay for actual damages to the premises or tangible personal property arising during the period prior to termination of the lease when the premises or tangible personal property were under the care, custody and control of the member or his family.

(e) Memberships subject to termination.--A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection

(a), may terminate without cost or penalty any membership or similar obligation incurred prior to the member's entry on active duty in a health club, fitness center, country club, outdoor or indoor recreational organization or similar organization where periodic payments are required to maintain membership, or the member, at his option, may suspend his periodic payments during his period of active service and shall be readmitted to active membership without payment of any initiation or other initial membership fee upon release from active service. The notice described in subsection (c) shall be sufficient for a member to notify the club or organization of the termination or suspension of membership.
(Apr. 16, 1992, P.L.161, No.29, eff. imd.)

1992 Amendment. Act 29 added section 7315.

§ 7315.1. Early termination of housing rental agreement by military personnel.

(a) General rule.--A member of the armed forces of the United States or a member of the Pennsylvania National Guard serving on full-time duty or as a civil service technician with a national guard unit may, through the procedure detailed in this subsection, terminate a housing rental agreement if the member or technician:

(1) has received permanent change of station orders;

(2) has received temporary duty orders in excess of three months;

(3) is honorably discharged or released from active duty with the armed forces of the United States or from full-time duty or technician status with the Pennsylvania National Guard; or

(4) has received orders for mandatory housing assignment to government-supplied quarters resulting in forfeiture of basic allowance for housing (BAH).

(b) Notice of termination.--Tenants who qualify to terminate a housing rental agreement under this section shall do so by serving on the landlord a written notice of termination effective not less than 30 days after receipt of the notice. Prior to the termination date, the tenant shall furnish the landlord with a copy of the official notification of the orders or a signed letter confirming the orders from the tenant's commanding officer.

(c) Final rent.--The final rent shall be prorated to the date of termination and shall be payable at such time as would have otherwise been required by the terms of the housing rental agreement.

(d) Arrearages and other obligations and liabilities.--Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis.

(e) Rent paid in advance.--Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor, or the lessor's assignee or the assignee's agent, within 30 days of the effective date of the termination of the lease.

(f) Relief to lessor.--Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(g) Tenant's obligations.--Nothing in this section shall affect the tenant's obligations under section 503-A of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951.

(h) Penalties.--

(1) Any person who knowingly seizes, holds or detains the personal effects, security deposit or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, commits a summary offense.

(2) The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(July 4, 2004, P.L.507, No.65, eff. 60 days)

2004 Amendment. Act 65 added section 7315.1.

§ 7316. Maximum rates of interest and scheduling of debts.

(a) Applicability.--This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) Maximum rates of interest.--No obligation or liability bearing interest at a rate in excess of the rate established under section 206 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178, 50 U.S.C. App. § 526), as may be amended from time to time, incurred by a person in military service, as described in subsection (a), shall, during any part of the period of service which occurs after the enactment of this section, bear interest at a rate in excess of the rate under section 206, calculated as an annual percentage rate in accordance with applicable laws and regulations, unless, in the opinion of the court, upon application thereto by the obligee, the ability of the person in the military service to pay interest upon the obligation or liability at a rate in excess of the rate under section 206 is not materially affected by reason of service, in which case the court may make the order as in its opinion may be just.

(c) Recalculation of repayment schedule.--Upon the reduction of the annual rate of interest pursuant to this section, there shall be a corresponding and proportionate reduction of the amount of any periodic payments made to satisfy the obligation based on a recalculation of the repayment schedule with the same repayment frequency and an interest rate equal to the rate established under section 206 of the Soldiers' and Sailors' Civil Relief Act of 1940, amortized over the original term of the loan.

(d) Rescheduling of debt payments.--When a member's income is materially reduced as a result of his being called or ordered to active duty, the member, his spouse or his agent or attorney-in-fact may apply to his creditors for a rescheduling of his debt payments to take into account the material reduction in his income. The member, his spouse or his agent or attorney-in-fact shall provide the creditor with a statement of his income prior to being called or ordered to active duty and his income thereafter. Based on proof of a material reduction in income, the creditor shall thereafter adjust or

reschedule the monthly or other periodic payments of the member. Nothing in this subsection shall be construed to relieve a member of the obligation to repay the principal of his debt after his release or discharge from active duty and restoration of his income at periodic payments equal to those in effect prior to activation.

(e) Interest.--As used in this section, the term "interest" includes service charges, renewal fees, fees or any other charges, except bona fide insurance, in respect of the obligation or liability.

(Apr. 16, 1992, P.L.161, No.29, eff. imd.)

1992 Amendment. Act 29 added section 7316.

§ 7317. Deferred motor vehicle insurance coverage.

(a) Applicability.--This section shall apply to members of the Pennsylvania National Guard who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, or to State active duty under this title, and members of other reserve components who are called or ordered to active duty with the armed forces of the United States, other than active duty for training, when the period of active duty or State active duty is 30 consecutive days or more.

(b) Deferral of coverage.--A member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States, as described in subsection (a), may defer without cost or penalty motor vehicle insurance coverage during the period of active duty on one or more vehicles owned by the member, either individually or jointly with another person, provided the member certifies to the insurer the vehicle will not be operated during his absence on active duty, and, if a motor vehicle serves as collateral for a loan, the member shall continue to insure it against the risks of property damage and theft as required by the lender.

(c) Limited exemption.--Any person described in subsection (a) shall have the same limited exemption from financial responsibility requirements as established in 75 Pa.C.S. § 1786(d)(2) (relating to required financial responsibility).

(d) Refund or crediting of prepaid premiums.--The insurer shall, at the election of the member, refund premiums paid for coverage during the period of deferral or credit such premiums to coverage in effect after the end of the deferral period.

(e) Reinstatement of deferred coverage.--Upon the member's release or discharge from active duty, the insurer shall, upon notice, reinstate the member's coverage at the rates then in effect.

(f) Actions prohibited.--No insurer shall, because of the deferral of insurance coverage provided under this section, cancel, nonrenew, impose a surcharge or a rate penalty or remove any premium discount on any insurance coverage upon reinstatement of the member's coverage.

(g) Intent.--It is the specific intent of the General Assembly to treat individuals subject to this section as if no deferral of insurance coverage occurred and insurance coverage was not interrupted.

(Apr. 16, 1992, P.L.161, No.29, eff. imd.; Oct. 6, 2005, P.L.322, No.60, eff. imd.)

2005 Amendment. Act 60 added subsecs. (f) and (g).

1992 Amendment. Act 29 added section 7317.

§ 7318. Unemployment compensation benefits.

(a) General rule.--Compensation payable under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, shall not be reduced pursuant to section 404(d)(1) of that act by reason of any military pay and allowances paid to a member of the Pennsylvania National Guard or a member of a reserve component of the armed forces for periods of active duty for emergencies as declared by the Governor or drill and instruction under 32 U.S.C. § 502(a)(1) (relating to required drills and field exercises) or for a member of a reserve component of the armed forces for drill or instruction under 10 U.S.C. (relating to armed forces).

(b) Applicability.--This section shall not apply to military pay and allowances paid to a member of the Pennsylvania National Guard for active Federal service or participation in annual training under 32 U.S.C. § 502(a)(2) or for a member of a reserve component of the armed forces for active military duty under 10 U.S.C. (relating to armed forces).

(Oct. 18, 2000, P.L.540, No.72, eff. 60 days; Dec. 9, 2002, P.L.1382, No.169, eff. 60 days)

2000 Amendment. Section 2 of Act 72 provided that Act 72 shall apply to unemployment compensation for weeks commencing on or after the effective date of Act 72.

§ 7319. Military family relief assistance (Expired).

2020 Expiration. Section 7319 expired June 30, 2020. See Act 66 of 2014.

CHAPTER 75
PROFESSIONAL AND OCCUPATIONAL LICENSES

Sec.

7501. Definitions.
7502. Retention of licenses and certifications of persons entering military service.
7503. Applicability of chapter (Deleted by amendment).
7503.1. Applicability of chapter.

Enactment. Chapter 75 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Cross References. Chapter 75 is referred to in section 2167 of Title 53 (Municipalities Generally).

§ 7501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Person." An individual, whether male or female, who may, have been, is now or may hereafter become engaged in the service of the United States of America or its allies as a member of the armed forces, or of the merchant marine thereof, or of any auxiliary thereof subject to military discipline.

"Veteran." An individual who has served in the United States Armed Forces, including a reserve component and National Guard, and who has been discharged or released from the service under conditions other than dishonorable.

(July 10, 2015, P.L.134, No.23, eff. 60 days)

§ 7502. Retention of licenses and certifications of persons entering military service.

(a) General rule.--Any person licensed or certified by the Department of State, Department of Labor and Industry, Department of Education, Insurance Department, Department of

Banking or the Municipal Police Officers' Education and Training Commission or pursuant to the act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act, to practice any profession or to work at any trade or occupation, who heretofore has or shall thereafter enlist or be inducted or drafted into the military or naval service of the United States in time of war or preparation for national defense during a national emergency, shall not thereby forfeit his or her current license or registration and shall be exempt from any continuing educational requirements or in-service training requirements.

(b) Renewal of license or certification following discharge.--A person shall, after presentation of a discharge from service described under subsection (a) within one year from the date of discharge and payment of the fee prescribed by law for the current renewal period only, be entitled to a renewal of his or her license, certification or registration in the same manner as though:

(1) The renewal had been made prior to the expiration of his or her last preceding renewal.

(2) All intermediate renewal fees had been paid.

(3) All continuing education or in-service training requirements have been satisfied.

(c) Exemptions.--A veteran's military service, education, training and service experience shall be taken into consideration by the entities listed under subsection (a) to determine whether a licensing or certification requirement has been met by or can otherwise be waived by reason of that military service, education, training or experience. The veteran shall only be required to meet a licensing or certification requirement which has not been met by or waived under this subsection.

(Nov. 29, 2006, P.L.1459, No.161, eff. imd.; July 10, 2015, P.L.134, No.23, eff. 60 days)

2015 Amendment. Act 23 amended subsec. (b) and added subsec. (c).

§ 7503. Applicability of chapter (Deleted by amendment).

2006 Amendment. Section 7503 was deleted by amendment Nov. 29, 2006, P.L.1459, No.161, effective immediately.

§ 7503.1. Applicability of chapter.

The Pennsylvania Supreme Court may extend this chapter to those licensed to practice law in this Commonwealth.

(Nov. 29, 2006, P.L.1459, No.161, eff. imd.)

2006 Amendment. Act 161 added section 7503.1.

CHAPTER 77
VETERANS' PENSIONS AND BENEFITS

Sec.

7701. Blind veteran's pension.
7702. Amputee and paralyzed veteran's pension.

Enactment. Chapter 77 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

Chapter Heading. The heading of Chapter 77 was amended March 19, 1986, P.L.60, No.17, effective July 1, 1986.

§ 7701. Blind veteran's pension.

(a) Definition.--As used in this section the term "blind veteran" shall mean any person who served in the military or

naval forces of the United States, or any woman's organization officially connected therewith, at any time, and who gave the Commonwealth of Pennsylvania, as his or her place of residence at the time of entering the military or naval forces of the United States, and who while performing duties connected with such service suffered an injury or incurred a disease which resulted in blindness to the extent that he or she has 3/60 or 10/200 or less normal vision. The term "blind veteran" shall not include any person separated from the military or naval forces of the United States, or any woman's organization officially connected therewith, under other than honorable conditions.

(b) Amount and eligibility.--In addition to any other assistance provided by the Commonwealth and in addition to any compensation provided by the Federal Government, every blind veteran shall be paid a pension of $150 per month. Applications for such pensions shall be made to and in the form prescribed by the department. The Adjutant General shall have the power, and it shall be his duty to determine the eligibility of every applicant for a pension, and his decision in the matter shall be final.

(Oct. 10, 1980, P.L.803, No.152, eff. imd.; June 22, 1999, P.L.98, No.14, eff. 60 days)

1999 Amendment. Act 14 amended subsec. (b).

§ 7702. Amputee and paralyzed veteran's pension.

(a) Amount and eligibility.--In addition to any other assistance provided by the Commonwealth and in addition to any compensation provided by the Federal Government, every amputee and paralyzed veteran shall be paid a pension of $150 per month. Applications for the pensions shall be made to and in the form prescribed by the department. The Adjutant General shall determine the eligibility of every applicant for a pension, and his decision in the matter shall be final.

(b) Regulations.--The Adjutant General shall promulgate such regulations as may be necessary to implement this program.

(c) Definition.--As used in this section the term "amputee and paralyzed veteran" means any person who served in the military or naval forces of the United States, or any woman's organization officially connected therewith, and who gave this Commonwealth as his or her place of residence at the time of entering the military or naval forces of the United States and who, while performing duties connected with such service, suffered an injury or incurred a disease which resulted in the loss or the permanent and severe or complete paralysis of two or more limbs, being defined as having at least two limbs with a 40% disability compensation rating or higher in each limb as determined and certified by the United States Department of Veterans Affairs in accordance with 38 CFR Ch. 1 Pt. 4 (relating to schedule for rating disabilities), or its successor. The term does not include any person separated from the military or naval forces of the United States under other than honorable conditions.

(Mar. 19, 1986, P.L.60, No.17; June 22, 1999, P.L.98, No.14, eff. 60 days; Dec. 17, 2001, P.L.925, No.109, eff. July 1, 2002; Oct. 22, 2014, P.L.2889, No.180, eff. imd.)

CHAPTER 79
VETERANS' LITIGATION AWARDS

Sec.

7901. Definitions.
7902. Veterans' litigation awards.

Enactment. Chapter 79 was added July 10, 1990, P.L.374, No.87, effective immediately and retroactive to January 1, 1989.

§ 7901. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agent Orange." The herbicide composed of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid and the contaminant dioxin (TCDD).

"Vietnam herbicide." The herbicides, defoliants and other causative agents containing dioxin, including Agent Orange, used in the Vietnam Conflict.

§ 7902. Veterans' litigation awards.

(a) Award exclusions.--Notwithstanding any other law of this Commonwealth to the contrary, any proceeds received pursuant to a judgment in, or settlement of, a lawsuit against the manufacturer or distributor of a Vietnam herbicide, for damages resulting from exposure thereto shall not be income or compensation for the purpose of any State or local tax, or for the calculation of any exemption or rebate therefrom, and shall not be income or an asset for determining the eligibility for State or local government benefit programs, including, but not limited to, general public assistance and vocational rehabilitation. Such proceeds shall not be subject to recoupment for the receipt of any governmental benefits, nor shall any lien be enforceable against such sums for any reason.

(b) Payment method.--This exclusion of litigation proceeds from use in tax or benefit program calculations shall be available to disabled veterans or their beneficiaries, whether payment is received in a lump sum or payable in installments over a period of years.

PART VI
MISCELLANEOUS PROVISIONS

Chapter

85. Veterans' Temporary Assistance
87. Educational Gratuity Program
89. Disabled Veterans' Real Estate Tax Exemption
91. Oaths, Affirmations and Acknowledgments
92. Certified Copies of Documents
93. Veterans' Organizations
94. Missing Persons
95. Long-term Care Patient Access to Pharmaceuticals
96. Veteran-owned Small Businesses
97. Heroic Service Website

Enactment. Part VI was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

CHAPTER 85
VETERANS' TEMPORARY ASSISTANCE

Sec.

8501. Definitions.
8502. Purpose.
8503. Eligibility.

8504. Amounts of assistance.
8505. Appeals.

Enactment. Chapter 85 was added April 29, 1988, P.L.381, No.60, effective immediately and retroactive to January 1, 1988.

Chapter Heading. The heading of Chapter 85 was amended October 4, 2016, P.L.882, No.109, effective immediately. Section 4 of Act 109 provided that the Adjutant General shall promulgate regulations to carry out the amendment of Chapter 85.

Cross References. Chapter 85 is referred to in sections 1704, 1721 of this title.

§ 8501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." The State Veterans' Commission established under section 1702 (relating to State Veterans' Commission).

"Eligible veteran." A person who served in the armed forces of the United States, including a reserve component or the National Guard, or a women's organization officially connected therewith, who:

(1) was discharged or released from service under conditions other than dishonorable after a period of active duty, other than active duty for training, as evidenced by a DD-Form 214, NGB-22 or other official documentation;

(2) died in service or was killed in action; or

(3) suffered a service-connected disability as certified by the United States Department of Veterans Affairs.

"Emergency." A sudden or unexpected loss of income due to sickness, disability, unemployment or other cause beyond the control of the applicant for emergency assistance.

"Necessities of living." Water, food, shelter, clothing, health care, personal vehicle, essential furnishings, utilities, transportation, communication and laundry services to the extent not provided by other government programs.

"Need for temporary assistance." Financial circumstances resulting in insufficient funds to pay for necessities of living for a veteran and family members of the veteran or surviving dependents when any of the following occur:

(1) The veteran or surviving dependents are temporarily unable to obtain or maintain the necessities of living without undue hardship.

(2) The need is caused by a loss of income, assets or support due to sickness, disability, unemployment, natural or manmade disaster or other cause beyond the control of, and not as a result of misconduct by, the applicant.

(3) The need is caused by an increase in costs of obtaining or maintaining necessities of living beyond the control of, and not as a result of misconduct by, the applicant.

"Program." The Veterans' Temporary Assistance Program under this chapter.

"Surviving dependents." The following are considered surviving dependents of a deceased eligible veteran:

(1) The unmarried surviving spouse of the deceased eligible veteran.

(2) If there is no unmarried spouse of a deceased eligible veteran, the unmarried minor children, children who, before attaining the age of 18, became permanently incapable of self-support, and children who are less than 23 years of age and are pursuing a full-time course of instruction at an approved educational institution, provided

they were, on the death of the eligible veteran, dependent on the eligible veteran for more than 50% of the cost of their support.

(3) If the eligible veteran is not survived by a spouse or dependent children, the surviving parents of the eligible veteran, provided that, on the date of the eligible veteran's death, they were dependent on the veteran for more than 50% of the cost of their support.

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

§ 8502. Purpose.

The purpose of the program is to provide temporary financial assistance to eligible veterans, their unmarried surviving spouses and surviving dependents when they face a financial emergency and need assistance to provide themselves with the necessities of living.

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

§ 8503. Eligibility.

In order to qualify for the program, applicants must demonstrate that:

(1) They are eligible veterans or eligible surviving dependents of eligible veterans.

(2) They are permanent residents of this Commonwealth who do not maintain residence in any other state for any purpose.

(3) They are not receiving sufficient monetary assistance from any Federal or State agency based on the need for temporary assistance described in the application. The receipt of food stamp assistance does not disqualify an applicant from eligibility for temporary assistance.

(4) Other funds or resources are not available to address the need for temporary assistance by providing documentation acceptable to the department.

(5) An immediate need for temporary assistance in order to provide themselves and their families with the necessities of living. The assistance must be essential for the applicant to obtain and maintain the necessities of living. Assistance for the relief of an inconvenience is deemed nonessential.

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

§ 8504. Amounts of assistance.

(a) Maximum amount.--In no event shall veterans' temporary assistance payments exceed the established maximum assistance or the documented amount of need, whichever is less.

(b) Standards.--Subject to the limitation set forth in subsection (a), the department shall determine uniform and equitable standards for the amounts of veterans' temporary assistance. The department shall report periodically to the commission on the administration and status of the program.

(c) Restrictions.--No person shall be eligible to receive veterans' temporary assistance for more than the established maximum assistance in any 12-month period.

(d) Method; adjustments.--No payments shall be made in the form of relief orders. The department may adjust the amounts of assistance paid under the program so that total payments do not exceed the amount of available funds.

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

§ 8505. Appeals.

Any person aggrieved by a decision denying payment of veterans' temporary assistance may appeal to the Adjutant General under provisions of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(Oct. 4, 2016, P.L.882, No.109, eff. imd.)

CHAPTER 87
EDUCATIONAL GRATUITY PROGRAM

Sec.
8701. Definitions.
8702. Educational gratuity payments.
8703. Eligibility and qualification requirements.

Enactment. Chapter 87 was added April 29, 1988, P.L.381, No.60, effective immediately and retroactive to January 1, 1988.

Cross References. Chapter 87 is referred to in section 1704 of this title.

§ 8701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." The State Veterans' Commission established under section 1702 (relating to State Veterans' Commission).

"Educational institution." Any college or university of the State System of Higher Education, a State-aided educational or training institution of a secondary or college grade or other institution of higher education, a business school, a trade school, a hospital school providing training for nurses, an institution providing courses in beauty culture, art, radio or undertaking or embalming, or such other educational training within this Commonwealth approved by the commission.

"Eligible disabled or deceased veteran." A person who served in the military or naval forces of the United States, or a women's organization officially connected therewith, who:

(1) was killed in action or died as a result of wounds incurred during a period of war or armed conflict or as a result of hostile fire or terrorist attack during peacetime (as determined by the Department of Military Affairs);

(2) died in service during a period of war or armed conflict;

(3) was honorably discharged from the military or naval forces of the United States and certified by the United States Veterans' Administration as a 100% disabled veteran as a result of service during a period of war or armed conflict or as a result of hostile fire or terrorist attack (as determined by the Department of Military Affairs) during peacetime; or

(4) was honorably discharged from the military or naval forces of the United States and died as a result of a service-connected disability (as certified by the United States Veterans' Administration) incurred during a period of war or armed conflict or as a result of peacetime hostile fire or terrorist attack (as determined by the Department of Military Affairs).

"Qualified child." Any child meeting the requirements of section 8703 (relating to eligibility and qualification requirements).

References in Text. The Department of Military Affairs, referred to in this section, is now the Department of Military and Veterans Affairs.

§ 8702. Educational gratuity payments.

(a) General rule.--The commission shall make educational gratuity payments not exceeding $500 per term or semester per qualified child to each approved educational institution upon submission by that approved educational institution of proof

that bills have been incurred or contracted covering matriculation fees and other necessary fees, tuition, board, room rent, books and supplies for a qualified child in a definite amount for the school year.

(b) Records.--The commission shall attach the proof submitted under subsection (a) to the requisition prepared for payment out of appropriations made by the General Assembly for purposes of the educational gratuity payments.

(c) Duration of payments.--Whenever a qualified child is completing an educational or training course and becomes 23 years of age before completing the course, the educational gratuity payment may be paid until the course is completed. No educational gratuity payments may be made for any qualified child for a period longer than four scholastic years, provided, however, that the department may adjust the payments per term or semester per child so that the total payments do not exceed the amount of the appropriation.

§ 8703. Eligibility and qualification requirements.

(a) Eligibility standards.--The following requirements shall be used to determine the eligibility of applicants for educational gratuity payments. The applicant shall be:

(1) Not less than 16 years of age nor more than 23 years of age.

(2) The child of an eligible disabled or deceased veteran.

(3) A resident of this Commonwealth for a period of five years immediately preceding the date the application was filed.

(b) Qualification determination.--The commission shall determine qualified applicants based on the following requirements:

(1) The applicant meets the requirements of subsection (a).

(2) The applicant is attending an approved educational institution.

(3) The applicant demonstrates a financial need for the educational gratuity.

(c) Appeal.--Any aggrieved applicant may appeal the decision of the commission to the Adjutant General under the provisions of Title 2 (relating to administrative law and procedure).

Cross References. Section 8703 is referred to in section 8701 of this title.

CHAPTER 89
DISABLED VETERANS' REAL ESTATE TAX EXEMPTION

Sec.

8901. Definitions.
8902. Exemption.
8903. Duty of board.
8904. Duty of commission.
8905. Appeals.
8906. Limitation on sale of exempt real estate.

Enactment. Chapter 89 was added April 29, 1988, P.L.381, No.60, effective immediately and retroactive to January 1, 1988.

Cross References. Chapter 89 is referred to in section 1704 of this title.

§ 8901. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Blind." Visual acuity of three-sixtieths or ten two-hundredths, or less normal vision.

"Commission." The State Veterans' Commission established under section 1702 (relating to State Veterans' Commission).

"Paraplegic." The bilateral paralysis of the upper or lower extremities of the body.

§ 8902. Exemption.

(a) General rule.--Any resident of this Commonwealth shall be exempt from the payment of all real estate taxes levied upon any building, including the land upon which it stands, occupied by that person as a principal dwelling, if all of the following requirements are met:

(1) That person has been honorably discharged or released under honorable circumstances from the armed forces of the United States for service in any war or armed conflict in which this nation was engaged.

(2) As a result of such military service, that person is blind or paraplegic or has sustained the loss of two or more limbs, or has a service-connected disability declared by the United States Veterans' Administration or its successors to be a total or 100% permanent disability.

(3) The dwelling is owned by that person solely, with his or her spouse or as an estate by the entireties.

(4) The need for the exemption from the payment of real estate taxes has been determined by the State Veterans' Commission in compliance with the requirements of this chapter.

(b) Extension of exemption.--The exemption provided in subsection (a) shall be extended to the unmarried surviving spouse upon the death of the eligible veteran provided that the State Veterans' Commission determines that such spouse is in need of an exemption.

(Nov. 29, 2006, P.L.1459, No.161, eff. 60 days)

Cross References. Section 8902 is referred to in section 8903 of this title.

§ 8903. Duty of board.

When the conditions specified in section 8902 (relating to exemption) are determined to exist by the board for the assessment and revision of taxes, or by a similar board for the assessment of taxes, and upon the receipt by that board of a certification of need for the tax exemption from the commission, the board shall grant the tax exemption prescribed by section 8902. Notification of the granting of the tax exemption by the board shall be forwarded to the person who has received the exemption from the payment of real estate taxes and to the tax-levying bodies and tax collectors of all political subdivisions imposing taxes upon the dwelling of the person granted the exemption from payment of real estate taxes.

§ 8904. Duty of commission.

The commission shall:

(1) Fix uniform and equitable standards for determining the need for exemption from the payment of real estate taxes granted by this act. In fixing such uniform and equitable standards, the commission shall apply a rebuttable presumption that an applicant with annual income of $75,000 or less has a need for the exemption. Beginning on January 1, 2009, and every two years thereafter, the commission shall adjust the annual income level qualifying for the rebuttable

presumption of need by an amount equal to the change in the Consumer Price Index in the preceding two years. The commission shall publish the adjusted annual income level qualifying for the rebuttable presumption of need as a notice in the Pennsylvania Bulletin.

(2) After submission of proof of need by the applicant for the exemption from payment of real estate taxes, determine the need of the applicant.

(3) Review at least once every five years all determinations of need for exemptions from the payment of real estate taxes which have been granted in order to determine any changes in the economic status of applicants bearing upon the question of need.

(4) Certify the name and address and the need for exemption from payment of real estate taxes, or termination of such need, to the board for the assessment and revision of taxes, or similar board for the assessment of taxes, having jurisdiction of the assessment of the real property owned solely or as an estate by the entirety and occupied as a residence by the person seeking the tax exemption granted by this chapter.

(Nov. 29, 2006, P.L.1459, No.161, eff. 60 days)

§ 8905. Appeals.

Any applicant aggrieved by a determination of the commission may appeal that determination to the Adjutant General under the provisions of Title 2 (relating to administrative law and procedure).

§ 8906. Limitation on sale of exempt real estate.

No real property solely owned, or owned as an estate by the entirety, and used exclusively as a residence by any person who has been granted an exemption from the payment of real estate taxes pursuant to the provisions of this chapter shall be sold for the nonpayment of real property taxes for which the exemption from payment has been granted.

CHAPTER 91
OATHS, AFFIRMATIONS AND ACKNOWLEDGMENTS

Sec.

9101. Acknowledgments and administering oaths without charge.
9102. Affidavits and acknowledgments by designated officers.

Enactment. Chapter 91 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 9101. Acknowledgments and administering oaths without charge.

It shall be the duty of any person authorized to take acknowledgments and administer oaths, to perform such service free of charge for any soldier, surviving spouse or orphan of a soldier, or parents of a soldier, who may apply to them for the purpose of making affidavit to papers for the purpose of obtaining pensions and all other papers connected with and referring to the military service of any ex-service person.

(Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

§ 9102. Affidavits and acknowledgments by designated officers.

(a) Designation of certain officers authorized.--Each local organization of The American Red Cross, The American Legion, Veterans of World War I of the U.S.A., Inc., Veterans of Foreign Wars of the United States, Disabled American Veterans, United Spanish War Veterans, Regular Veterans Association, Director of Veterans Affairs, Jewish War Veterans of the United States, the Military Order of the Purple Heart, the Italian American

War Veterans of the United States, Incorporated, and such other similar organizations now or hereafter accredited or recognized by the United States Veterans Administration, which supplies such aid and assistance to veterans or their dependents, and which gratuitously prepares forms for veterans and their dependents in connection with their affairs as such before the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof, is hereby authorized to designate one of its officers to take affidavits or acknowledgments to such forms, as may be required by rule, regulation or otherwise by the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof, in the administration of the affairs of veterans and their dependents. For the same purposes the Adjutant General is authorized to designate one or more persons from the Department of Military Affairs, and the State Director of Selective Service is authorized to designate one or more persons from the Pennsylvania Selective Service System.

(b) Appointment, certification and authority.--When any such officer or person is so designated, his name, address and official position shall be furnished to the Secretary of the Commonwealth, in writing, signed by such designated officer or person, accompanied by a certificate of his designation by the proper authority of such organization, or of the Adjutant General, or the State Director of Selective Service, as the case may be. Upon receipt of such writing and certificate in form as herein provided the Secretary of the Commonwealth, with the approval of the Governor, shall issue under his hand and seal of his office a certificate of appointment to such designated officer or person which shall authorize him to take affidavits or acknowledgments of veterans and their dependents in connection with their affairs as such before the United States, any agency thereof, or the Commonwealth, any agency or political subdivision thereof. Such authorized officer or person shall exercise the authority conferred under the provisions of this section at the pleasure of the Governor. Each certificate issued as aforesaid by the Secretary of the Commonwealth shall be numbered in the order of date issued, and the Secretary of the Commonwealth is hereby authorized to certify such appointment whenever required.

(c) Record of affidavit or acknowledgment.--Each affidavit or acknowledgment taken as above authorized shall contain the date, signature and title of the officer or person administering the same and the number of the certificate issued to the authorized officer or person.

(d) Charges for certification, acknowledgment or affidavit.--The Secretary of the Commonwealth shall make no charge whatsoever for filing, appointing, or certifying under the provisions of this section, nor shall any officer or person so designated and authorized make any charge for taking such acknowledgments or affidavits.

(e) Penalty.--Any person who shall be convicted of having willfully and knowingly made or taken a false oath or affirmation before any officer or person authorized under this section to administer same in any matter within his official duty, shall be guilty of a misdemeanor of the third degree.

References in Text. The Department of Military Affairs, referred to in subsec. (a), is now the Department of Military and Veterans Affairs.

CHAPTER 92
CERTIFIED COPIES OF DOCUMENTS

Sec.
9201. Certified copies of documents furnished without charge.

Enactment. Chapter 92 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 9201. Certified copies of documents furnished without charge.

(a) General rule.--Whenever application shall be made to the proper public officer by or on behalf of any disabled war veteran, or member of the armed forces or their reserve components or the National Guard, of any war or armed conflict in which the United States has been, is now or shall hereafter be engaged, or by or on behalf of any dependent of any such veteran, or member of the armed forces or their reserve components or the National Guard, for a certified copy of any death certificate, birth certificate, marriage certificate or decree of divorce, for use in connection with any claim for death benefits, compensation allowance, family or dependency allotment, it shall be the duty of such public officer to furnish such certified copy free of any charge therefor provided for by any law of this Commonwealth. No divorce certificate shall be issued under this section unless said divorce action record shows all costs fully paid. As used in this section, the term "public officer" means an authorized official in the Department of Health as to any of the foregoing records in the possession of the Department of Health and the proper county officer as to any other records within this subsection.

(b) Credit for issuing certificate.--Where any county office issues any certificate under this section, said office shall be given an earned credit for the same by proper authorities as if the fee for said certificate had been received from person or persons applying therefor.

(c) Compensation of issuing officer.--In counties where the county officer issuing any certificate under this section is compensated on a fee basis, the fee for issuing such certificate shall be paid by the county, upon the presentation to the county commissioners of proper vouchers by the county officer issuing such certificate.

(d) Certificates relating to release or discharge.--The department, upon request, shall provide one certified, true copy of each soldier's Certificate of Release or Discharge From Active Duty to the Director of Veterans' Affairs of the county where the soldier resided at the time of enlistment or to the soldier or the soldier's representative free of any charge. (Mar. 21, 1996, P.L.39, No.12, eff. 60 days; Apr. 4, 1996, P.L.98, No.22, eff. 60 days)

1996 Amendments. Act 12 added subsec. (d) and Act 22 amended subsec. (a). Section 5 of Act 12 provided that the amendment of section 9201 shall apply to Certificates of Release or Discharge From Active Duty issued on or after the effective date of Act 12.

CHAPTER 93
VETERANS' ORGANIZATIONS

Sec.
9301. Reports of annual conventions.

9302. Veterans' associations accompanied by military bands to places of interment or divine services.
9303. Charitable status of certain veterans' organizations.
9304. Grants to veterans' service officer programs.

Enactment. Chapter 93 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 9301. Reports of annual conventions.

(a) Printing and distribution by Commonwealth.--Whenever the department commanders of the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars of the United States, the American Legion, the Disabled American Veterans of the World War, the Veterans of World War I of the U.S.A., Inc., the American Veterans of World War II (AMVETS), Military Order of the Purple Heart, Jewish War Veterans, Catholic War Veterans, Inc., The Society of the 28th Division, A.E.F., the Marine Corps League and the Italian American War Veterans of the United States, Incorporated, shall report to the Department of Property and Supplies the proceedings of the annual encampment or conventions of their respective departments, with such general and special orders and circulars and other data which may form a part of said proceedings, then the said proceedings, so reported, shall be considered Commonwealth records, and under the direction of the Department of Property and Supplies, shall be printed and bound, and a printed and bound copy thereof shall be sent to each post or detachment in this Commonwealth of the organization of whose proceedings the same is a report.

(b) Number of copies printed and distributed.--Not more than 1500 copies of each of such annual reports shall be printed and bound, and the balance remaining after the distribution provided for in subsection (a) may be requisitioned as follows:

(1) State Librarian, 300 copies.

(2) Legislative Reference Bureau and Senate Library, ten copies.

(3) Executive head of the organization of whose proceedings it is a report, the remaining copies.

References in Text. The Department of Property and Supplies, referred to in subsec. (a), is now the Department of General Services.

§ 9302. Veterans' associations accompanied by military bands to places of interment or divine services.

All associations of veteran soldiers, when parading for the purpose of interring any deceased member of such association or other veteran soldier, or for the purpose of attending divine service on Sunday, may be accompanied by the proper military band, from their place of assembly to the place of interment or to the place of holding divine service, and thence to the point where they shall disband except that the band shall not play upon the return from such interment, or from such divine service.

§ 9303. Charitable status of certain veterans' organizations.

(a) General rule.--Notwithstanding any other law to the contrary, any branch, post or camp of honorably discharged servicemen or servicewomen or an affiliated organization thereof shall be:

(1) Exempt from sales and use taxes imposed under Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for all purchases used for benevolent, charitable or patriotic purposes.

(2) Exempt from any real property taxes for that portion of the real property that is actually and regularly used for benevolent, charitable or patriotic purposes.

(b) Definition.--As used in this section, the term "affiliated organization" means an affiliated organization as defined in section 461.1(b) of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.
(Oct. 16, 1998, P.L.780, No.96, eff. imd.)

1998 Amendment. Act 96 added section 9303.

§ 9304. Grants to veterans' service officer programs.

(a) Award allocations.--From funds specifically appropriated for this purpose, the department shall award grants to designated veterans' service organizations to support veterans' service officer programs. Grants awarded under this section shall be used solely to support accredited veterans' service officers and the associated costs, including:

(1) Wages, benefits, other compensation and related personnel costs.

(2) Training provided by accredited veterans' service advocacy staff.

(3) Equipment to be used by accredited veterans' service officer staff.

(b) Program goals.--The goals of the program shall include:

(1) improvement of the coordination and distribution of veterans' benefits;

(2) maximization of the effective and efficient use of taxpayer dollars; and

(3) increasing veterans' participation in available benefits programs.

(c) Use of grants.--A designated veterans' service organization shall use grants received under this section to improve the administration and delivery of services to Pennsylvania's veterans and meet the goals set forth in subsection (b) by:

(1) Increasing interaction between the veterans' service organizations and the United States Department of Veterans Affairs in order to enhance the delivery of services to Pennsylvania veterans.

(2) Increasing the number of initial claims filed with the United States Department of Veterans Affairs on behalf of Pennsylvania veterans for service-related disabilities or pension benefits.

(3) Developing methods to increase rates of recovery paid by the United States Department of Veterans Affairs to Pennsylvania veterans.

(4) Expanding training opportunities for designated veterans' service organizations and veterans' service officers.

(5) Increasing either the number or percentage of Pennsylvania veterans enrolled in the Department of Veterans Affairs health care system.

(6) Improving coordination among the veterans' service organizations and with the department to assure an integrated approach to claims processing.

(7) Improving outreach services to veterans throughout Pennsylvania and each of its counties.

(d) Eligibility.--The following veterans' service organizations are designated to receive grants under this program:

(1) The American Legion.

(2) AMVETS.

(3) Veterans of Foreign Wars of the United States.
(4) Disabled American Veterans.
(5) The department may designate additional Pennsylvania veterans' service organizations to receive grants under the program when:
(i) The veterans' service organization is a member of the State Veterans' Commission as listed in section 1702(b) (relating to State Veterans' Commission).
(ii) The veterans' service organization serves as an active participant in the State Veterans' Commission abiding by the statutory rules and guidelines.

(e) Application for allocations.--Veterans' service organizations eligible for funding under subsection (c) shall submit an annual spending plan to the department in order to be eligible to receive a grant under this section consistent with the provisions of subsections (b) and (c).

(f) Amount of grants.--The department shall determine the annual allocation to each of the designated veterans' service organizations based on the spending plan submitted under subsection (e) for the upcoming fiscal year and on actual recoveries from the previous fiscal year. If the total appropriation totals less than the collective spending plans, the department shall prorate the allocations among eligible organizations based on the spending plan and past performance.

(g) Procedures, policies and guidelines.--The department shall establish procedures, policies, guidelines, forms and reporting requirements necessary to carry out the purposes of this program within 45 days of the effective date of this section. Procedures, policies, guidelines, forms and reporting requirements established under this section shall be submitted to the Veterans Affairs and Emergency Preparedness Committee of the Senate and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives for their review and comment.

(h) Reporting requirements.--On or before October 1 of each year, designated veterans' service organizations participating in the program established by this section shall file a written report with the Adjutant General and the Deputy Adjutant General for Veterans' Affairs and send copies to the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives and State Veterans' Commission. The report shall contain the following information:
(1) A description of all veterans' service officer activities, an accounting of recoveries and a listing of volunteer hours for the preceding Commonwealth fiscal year.
(2) A proposed budget and spending plan for the Commonwealth fiscal year beginning on July 1 of the year following the filing of the report.
(3) An accounting of its expenditures from grants awarded under this program, audited by a certified public accountant for the preceding Commonwealth fiscal year.

(i) Review of reports.--The Veterans Affairs and Emergency Preparedness Committee of the Senate and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives shall review the reports filed by the participating veterans' service organizations.

(j) Audits.--The department or the Auditor General may conduct such audits and reviews of the grant program hereby established as the department or the Auditor General determines

to be necessary or appropriate. Copies of all audit reports or reviews conducted by the department or the Auditor General shall be made available to the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.
(Dec. 12, 2007, P.L.433, No.66, eff. imd.)

2007 Amendment. Act 66 added section 9304. See section 2 of Act 66 in the appendix to this title for special provisions relating to applicability.

CHAPTER 94
MISSING PERSONS

Sec.
9401. Federal findings of death or other status as evidence.
9402. Federal reports of persons missing in action or interned as evidence.
9403. Signatures of Federal officers presumed authorized.

Enactment. Chapter 94 was added August 1, 1975, P.L.233, No.92, effective January 1, 1976.

§ 9401. Federal findings of death or other status as evidence.

A written finding of missing in action or presumed death made by the Department of Defense, or an officer or employee of the United States authorized to make such finding pursuant to the Federal Missing Persons Act (56 Stat. 143, 1092, and Public Laws, 408, Ch. 371, 2d Sess. 78th Cong. 50 U.S.C.App.Supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding shall be received in any court, office, or other place in this Commonwealth as prima facie evidence of the death of the person therein found to be missing in action or dead, and the date, circumstances, and place of his disappearance.

Cross References. Section 9401 is referred to in sections 9402, 9403 of this title.

§ 9402. Federal reports of persons missing in action or interned as evidence.

An official written report, or record, or duly certified copy thereof, that a person is missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, made by any officer, or employee of the United States authorized by the statute referred to in section 9401 (relating to Federal findings of death or other status as evidence), or by any other law of the United States to make same, shall be received in any court, office, or other place in this Commonwealth as prima facie evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged, or captured by an enemy, or is dead, or is alive, as the case may be.

Cross References. Section 9402 is referred to in section 9403 of this title.

§ 9403. Signatures of Federal officers presumed authorized.

For the purposes of section 9401 (relating to Federal findings of death or other status as evidence) and section 9402 (relating to Federal reports of persons missing in action or interned as evidence), any finding, report, or record, or duly

certified copy thereof purporting to have been signed by such an officer, or employee of the United States, as is described in sections 9401 and 9402, shall prima facie be deemed to have been signed and issued by such an officer, or employee, pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify.

CHAPTER 95
LONG-TERM CARE PATIENT ACCESS TO PHARMACEUTICALS

Sec.

9501. Scope of chapter.
9502. Declaration of policy.
9503. Definitions.
9504. State Board of Pharmacy.
9505. Third-party drugs in long-term care facilities.
9506. Recordkeeping.
9507. Fee.
9508. Civil liability and unprofessional conduct.

Enactment. Chapter 95 was added May 8, 2012, P.L.248, No.36, effective in 60 days.

Special Provisions in Appendix. See section 3 of Act 36 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 9501. Scope of chapter.

This chapter relates to long-term care patient access to pharmaceuticals.

§ 9502. Declaration of policy.

The General Assembly finds and declares as follows:

(1) A mechanism is to be provided through which patients who have the ability to acquire lower cost drugs through the United States Department of Veterans Affairs have access to those drugs if they reside in a long-term care facility, assisted living residence or personal care home.

(2) The mechanism is to be provided by permitting the pharmacy within the long-term care facility, assisted living residence or personal care home, or which has a contract with the entity to:

(i) receive the lower cost drugs directly from the United States Department of Veterans Affairs drug benefit program in the patient's name; and

(ii) repackage and relabel those drugs so they may be dispensed in unit doses to patients in a long-term care facility, assisted living residence or personal care home in compliance with the Food and Drug Administration, the United States Pharmacopeia and the policies and procedures of the long-term care facility, assisted living residence or personal care home.

(3) This chapter shall be interpreted and construed to effectuate the following purposes:

(i) To provide for the care, protection and treatment of patients in long-term care facilities, assisted living residences and personal care homes by allowing them to utilize the drug benefit provided by the United States Department of Veterans Affairs.

(ii) Consistent with the care, protection and treatment of patients in long-term care facilities,

assisted living residences and personal care homes, to provide a means by which a pharmacy, within these settings or that has a contract with the entities listed, may:

(A) accept, on behalf of the patient, drugs received directly from the United States Department of Veterans Affairs; and

(B) repackage and relabel those drugs so that the patient may receive them in a unit dose in compliance with the Food and Drug Administration, the United States Pharmacopeia and the policies and procedures of the long-term care facility, assisted living residence or personal care home.

(iii) To provide a means through which this chapter is executed and enforced and in which long-term care facilities, assisted living residences, personal care homes, pharmacists, drug source facilities and pharmaceutical providers may implement this chapter.

(4) Only individuals eligible for benefits provided by the United States Department of Veterans Affairs are eligible for the program under this chapter.

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

Special Provisions in Appendix. See section 3(3)(i) of Act 36 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

§ 9503. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Assisted living residence." As defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Board." The State Board of Pharmacy.

"Drug source facility." A facility:

(1) where drugs are lawfully manufactured, dispensed or distributed; and

(2) which is:

(i) operated by or under contract with the United States Department of Veterans Affairs; or

(ii) approved by the United States Department of Veterans Affairs.

"Lockbox." A cabinet, safe, container or other structure to contain medications that shall be securely locked, substantially constructed and accessible only to the pharmacist or his representative as authorized by the regulations of the State Board of Pharmacy.

"Long-term care facility." A long-term care nursing facility as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Means." The placement of a lockbox at a location at a long-term care facility, assisted living residence or personal care home.

"Personal care home." As defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Pharmaceutical provider." An entity that employs a pharmacist.

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

Special Provisions in Appendix. See section 3(3)(ii) of Act 36 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 9504. State Board of Pharmacy.

The board has the following powers and duties:

(1) Develop the form required by section 9505(b)(3) and (4) (relating to third-party drugs in long-term care facilities).

(2) Publish a notice in the Pennsylvania Bulletin that the form has been developed.

§ 9505. Third-party drugs in long-term care facilities, assisted living residences and personal care homes.

(a) Authority.--Notwithstanding any other provision of law, all of the following may dispense a drug acquired from a drug source facility outside the long-term care facility, assisted living residence or personal care home to a patient of a long-term care facility, assisted living residence or personal care home:

(1) A pharmacist employed by a long-term care facility, assisted living residence or personal care home.

(2) A pharmacy that contracts with a long-term care facility, assisted living residence or personal care home to fill prescriptions for patients residing in these settings.

(b) Unit dose.--A person authorized under subsection (a) to dispense a drug shall repackage, relabel and dispense the drug in a unit dose if all of the following conditions are met:

(1) The drug is obtained from a drug source facility.

(2) There is a prescription for the drug.

(3) The prescriber has signed a form authorizing the long-term care facility, assisted living residence or personal care home to administer a drug from a drug source facility outside the long-term care facility, assisted living residence or personal care home.

(4) The patient has signed a form authorizing the long-term care facility, assisted living residence or personal care home to administer a drug from a drug source facility outside the location and provided payment information for payment of the related fees to the pharmacy. In the case of a minor or a patient who is unable to sign the form, a parent, a guardian, an agent acting under a power of attorney or a family member is authorized to sign the form. The form must explain that a person authorized under subsection (a) to dispense a drug from a drug source facility outside the long-term care facility, assisted living residence or personal care home:

(i) is required to go through the process of repackaging and relabeling the drug;

(ii) may charge a fee for repackaging and relabeling the drug, including the amount of the fee and the frequency of its assessment; and

(iii) has immunity from civil liability arising from dispensation of the drug if the person properly repackages and relabels the drug as set forth in section 9508 (relating to civil liability and unprofessional conduct).

(5) The attending physician or other provider prescribing medications for the patient within their scope of practice has issued an order continuing the patient's medical regime.

(6) The repackaging is in compliance with the Food and Drug Administration, the United States Pharmacopeia and the policies and procedures of the long-term care facility, assisted living residence or personal care home.

(7) The United States Department of Veterans Affairs provides the drug directly to the pharmacy in the long-term care facility, assisted living residence or personal care home in the patient's name or by mailing it to a lockbox located at the long-term care facility, assisted living residence or personal care home in the patient's name and with the following information in preparation for the repackaging and relabeling:

(i) The name and address of the dispensing pharmacy.

(ii) (Reserved).

(iii) (Reserved).

(iv) A copy of the original prescription upon request.

(v) The date the drug was dispensed.

(vi) Directions for use, contraindications and other materials required by law to be provided to the patient.

(7.1) A pharmacist must be held responsible for his activity or activity performed under his supervision or authorization.

(8) The pharmacist manager of the pharmacy, within the long-term care facility, assisted living residence or personal care home or that has a contract with the long-term care facility, assisted living residence or personal care home responsible for access to the lockbox shall be responsible for the following:

(i) Reviewing and approving written policies and procedures for lockbox operation, safety, security, accuracy, access and patient confidentiality.

(ii) Ensuring that medications received at the lockbox are inspected for expiration date, misbranding and physical integrity and ensuring that the lockbox is inspected for security and accountability every month.

(iii) Inspecting medications received at the lockbox to determine if:

(A) the original contents have deteriorated significantly due to heat, cold fermentation or prolonged agitation; or

(B) the sensors indicate the integrity of the drug was compromised if the drugs were shipped in a manner that would preserve the integrity of the drug, such as cold packs or other temperature control devices.

(iv) Assigning, discontinuing or changing authorized personnel access to the lockbox.

(v) Ensuring that an accountability record is maintained in accordance with the written policies and procedures of operation.

(vi) Ensuring compliance with the applicable provisions of Federal and State law.

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

Special Provisions in Appendix. See section 3(3)(iii) of Act 36 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Section 9505 is referred to in sections 9504, 9506, 9507, 9508 of this title.

§ 9506. Recordkeeping.

For each drug dispensed in accordance with section 9505(a) (relating to third-party drugs in long-term care facilities, assisted living residences and personal care homes), the person authorized to dispense the drug and the long-term care facility, assisted living residence or personal care home shall maintain a record for at least two years of all of the items specified in section 9505(b)(7).

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

§ 9507. Fee.

A person authorized under section 9505(a) (relating to third-party drugs in long-term care facilities, assisted living residences and personal care homes) to dispense a drug may charge no more than the maximum dispensing fee authorized by the Department of Public Welfare regulations under the medical assistance program.

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 9508. Civil liability and unprofessional conduct.

(a) Repackaging and relabeling.--A person authorized under section 9505(a) (relating to third-party drugs in long-term care facilities, assisted living residences and personal care homes) to dispense a drug shall be immune from civil liability arising out of dispensation of the drug if the person properly repackages and relabels a drug based on the information received from the original drug source facility.

(b) Administration of drug.--A long-term care facility, assisted living residence or personal care home or an employee or agent of a long-term care facility, assisted living residence or personal care home that properly administers a drug from a person authorized under section 9505(a) to dispense the drug shall be immune from civil liability arising out of administration of the drug.

(c) Unprofessional conduct.--A pharmacist authorized under section 9505(a) to dispense a drug who properly relabels and repackages the drug shall not be deemed to have engaged in unprofessional conduct under section 5(9) of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

(Oct. 14, 2014, P.L.2511, No.147, eff. 60 days)

CHAPTER 96
VETERAN-OWNED SMALL BUSINESSES

Subchapter

A. Preliminary Provisions
B. Participation
C. Business Fee Exemption

Enactment. Chapter 96 was added October 24, 2012, P.L.1468, No.185, effective in 60 days.

Special Provisions in Appendix. See section 7 of Act 135 of 2016 in the appendix to this title for special provisions relating to status of certain businesses.

Cross References. Chapter 96 is referred to in section 303 of Title 74 (Transportation).

SUBCHAPTER A
PRELIMINARY PROVISIONS

Subchapter Heading. Subchapter A heading was added November 3, 2016, P.L.1053, No.135, effective in 60 days.

Sec.
9601. Definitions.

§ 9601. Definitions.

Subject to section 9602 (relating to regulations), the following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commonwealth agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Executive agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Purchasing agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Service-disabled." Being in possession of:

(1) a disability rating letter issued by the United States Department of Veterans Affairs; or

(2) a disability determination from the United States Department of Defense.

"Service-disabled veteran-owned small business." A small business owned and controlled by:

(1) a service-disabled veteran or veterans; or

(2) if approved by the Department of General Services, a surviving spouse or permanent caregiver of a service-disabled veteran.

"Small business." As defined in 62 Pa.C.S. § 2102 (relating to definitions).

"State-affiliated entity." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Veteran." An individual who served in the United States Armed Forces, including a reserve component or the National Guard, and who was discharged or released from service under conditions other than dishonorable.

"Veteran-owned small business." A small business owned and controlled by a veteran or veterans.

(Nov. 3, 2016, P.L.1053, No.135, eff. 60 days)

2016 Amendment. See section 7 of Act 135 in the appendix to this title for special provisions relating to status of certain businesses.

Cross References. Section 9601 is referred to in section 9602 of this title; section 2201 of Title 62 (Procurement); section 303 of Title 74 (Transportation).

SUBCHAPTER B
PARTICIPATION

Sec.
9602. Regulations.
9603. Participation goal.
9604. Duties of Department of General Services.
9605. Bonding and progress payments.
9606. (Reserved).
9607. Reports.

9608. Compliance with Federal requirements.

Subchapter Heading. Subchapter B heading was added November 3, 2016, P.L.1053, No.135, effective in 60 days.

§ 9602. Regulations.

(a) Promulgation.--The Department of General Services shall establish policy in accordance with this subchapter for executive agencies and independent agencies and may, in consultation with the department, promulgate regulations establishing detailed definitions of the words and phrases defined in section 9601 (relating to definitions) using, in addition to the criteria set forth in section 9601, other criteria as it deems appropriate, including the number of employees and the dollar volume of business.

(b) Implementation.--State-affiliated entities shall implement the policy for their procurement programs.

(c) Antifraud provisions.--The Department of General Services shall establish policy and promulgate regulations establishing antifraud provisions to deter and penalize businesses that are not owned by those who are service-disabled or by veterans but who falsely claim that they are in order to receive any action authorized by this subchapter.

(d) Notice.--Notice of the antifraud provisions and an e-mail address and telephone number to report violations of the antifraud provisions to the Department of General Services shall be included, if feasible, in any application to be certified or to be included in any source list authorized by this subchapter. The Department of General Services shall include in its annual reports to the General Assembly information about the number of businesses penalized for violating antifraud provisions.

(Nov. 3, 2016, P.L.1053, No.135, eff. 60 days)

2016 Amendment. See section 7 of Act 135 in the appendix to this title for special provisions relating to status of certain businesses.

Cross References. Section 9602 is referred to in section 9601 of this title.

§ 9603. Participation goal.

A Statewide annual goal of not less than 3% participation by veteran-owned small businesses, including service-disabled veteran-owned small businesses, is established. The participation goal shall apply to the total value of all contracts available to small businesses in each fiscal year.

Cross References. Section 9603 is referred to in section 303 of Title 74 (Transportation).

§ 9604. Duties of Department of General Services.

The Department of General Services, with the assistance of the department, shall have the following duties:

(1) If feasible, provide appropriate staff, who shall be responsible to the Department of General Services and who shall serve within designated Commonwealth agencies to assist veteran-owned small businesses and service-disabled veteran-owned small businesses in this Commonwealth in learning how to do business with Commonwealth agencies.

(2) Give special publicity to procurement procedures and issue special publications designed to assist veteran-owned small businesses and service-disabled veteran-owned small businesses in learning how to do business with Commonwealth agencies.

(3) Compile, maintain and make available source lists of veteran-owned small businesses and service-disabled veteran-owned small businesses for the purpose of encouraging procurement from veteran-owned small businesses.

(4) Include veteran-owned small businesses and service-disabled veteran-owned small businesses on solicitation mailing lists.

(5) Assure that veteran-owned small businesses and service-disabled veteran-owned small businesses are solicited on procurements for which the businesses may be suited.

(6) Develop special training programs to assist veteran-owned small businesses and service-disabled veteran-owned small businesses in learning how to do business with Commonwealth agencies.

(7) Assure that participation by veteran-owned small businesses and service-disabled veteran-owned small businesses is, if appropriate, factored into the evaluation of proposals for supplies, services or construction when a purchasing agency uses the competitive sealed proposals method under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(8) Verify the current certification of businesses claiming to be certified as veteran-owned small businesses and service-disabled veteran-owned small businesses.

§ 9605. Bonding and progress payments.

(a) Bonding.--Notwithstanding 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code):

(1) Except as provided in paragraph (2), a purchasing agency may reduce the level or change the types of bonding normally required or accept alternative forms of security to the extent reasonably necessary to encourage procurement from veteran-owned small businesses and service-disabled veteran-owned small businesses.

(2) For contracts under $25,000, veteran-owned small businesses and service-disabled veteran-owned small businesses shall be exempt from any bonding requirements.

(b) Progress payments.--A purchasing agency may make special provisions for progress payments as it deems reasonably necessary to encourage procurement from veteran-owned small businesses and service-disabled veteran-owned small businesses.

§ 9606. (Reserved).

§ 9607. Reports.

(a) Report to Department of General Services.--By August 15, 2013, and each August 15 thereafter, each executive agency and independent agency shall submit an annual report for the period of July 1 to June 30 to the Department of General Services on actual utilization of veteran-owned small businesses and service-disabled veteran-owned small businesses as contractors, subcontractors, suppliers and professional service providers.

(b) Report to standing committees.--

(1) The Department of General Services and each State-affiliated entity shall annually, before October 1, report in writing to the Veterans Affairs and Emergency Preparedness Committee of the Senate and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives the actual utilization, Statewide and by each purchasing agency, of veteran-owned small businesses and service-disabled veteran-owned small businesses during the preceding fiscal year.

(2) The report shall include a list of all veteran-owned small businesses and service-disabled veteran-owned small

businesses that participated as contractors, subcontractors, suppliers and professional service providers during the preceding fiscal year.

(3) Initial reports under this subsection shall be submitted to the standing committees by October 1, 2013.

§ 9608. Compliance with Federal requirements.

If a procurement involves the expenditure of Federal assistance or contract funds, the purchasing agency shall comply with Federal law and authorized regulations that are mandatorily applicable and that are not presently reflected in 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code).

SUBCHAPTER C
BUSINESS FEE EXEMPTION

Sec.

9610. Definitions.
9611. Exemption.

Enactment. Subchapter C was added November 3, 2016, P.L.1053, No.135, effective in 60 days.

§ 9610. Definitions.

As used in this subchapter, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Business fee." A fee required to be paid to the Commonwealth or a political subdivision for starting or opening a business within this Commonwealth. The term does not include a fee for maintaining licensure or other requirement for continuing to operate a business.

"Reservist." A member of a United States Armed Forces reserve component or National Guard.

"Reservist-owned small business." A business owned and controlled by a member of a United States Armed Forces reserve component or National Guard.

§ 9611. Exemption.

(a) Payment.--A veteran-owned or reservist-owned small business shall be exempt from the payment of a business fee.

(b) Proof.--A veteran or reservist must provide the department or licensing authority of a political subdivision with proof of the veteran's or reservist's status using any of the following with any business application:

(1) A copy of a Federal DD-214 form.

(2) A copy of a Federal NGB-22 form.

(3) A valid Federal Veterans' Administration card.

(4) A valid Department of Defense-issued military identification card.

(c) Status.--The Department of State or licensing authority of a political subdivision, in consultation with other Commonwealth agencies, may determine an applicant's status as a veteran or reservist in accordance with this section.

(d) Offenses.--

(1) A person who fraudulently obtains a business fee exemption commits a misdemeanor of the third degree.

(2) A person assigning, transferring or attempting to assign or transfer a business fee exemption or using or attempting to use a business fee exemption contrary to this section commits a misdemeanor of the third degree.

(e) Reporting.--The Department of State shall annually determine the total number of business fee exemptions applied for and issued and the total dollar amount of the exemptions

under this section and submit a report to the chair and minority chair of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chair and minority chair of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives. The report may be submitted electronically.

CHAPTER 97
HEROIC SERVICE WEBSITE

Sec.
9701. Responsibilities.

Enactment. Chapter 97 was added June 18, 2014, P.L.745, No.59, effective in 60 days.

§ 9701. Responsibilities.

The department shall have the following responsibilities:

(1) In consultation and cooperation with the United States Department of Defense, the department shall provide public access to a searchable database of individuals who have been awarded the Medal of Honor, the Distinguished Service Cross, the Navy Cross, the Air Force Cross and the Silver Star, which are granted for heroic service in the armed forces of the United States. The searchable database shall include the following:

(i) The recipient's full name.

(ii) The recipient's dates of service.

(iii) The name of the award or decoration.

(iv) The date of award or decoration.

(2) Within one year of the effective date of this paragraph, the department shall issue a report detailing the feasibility of expanding the database established under paragraph (1) to all military awards and decorations. The report shall include an estimate of the costs to the department associated with the establishment, administration and maintenance of the expanded database under this paragraph. The report shall be published on the department's publicly accessible Internet website and shall be delivered to the Veterans Affairs and Emergency Preparedness Committee of the Senate and to the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.

(3) Information pursuant to this chapter shall be available on the department's publicly accessible Internet website within three months of the effective date of this chapter.

CHAPTER 98
NATIONAL GUARD YOUTH
CHALLENGE PROGRAM

Enactment. Chapter 98 was added June 28, 2018, P.L.365, No.51, effective immediately.

§ 9801. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Institution of higher education." Any of the following:

(1) A community college operating under Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) A university within the State System of Higher Education under Article XX-A of the Public School Code of 1949.

(3) A State-related institution as defined in section 1502-A of the Public School Code of 1949.

(4) Thaddeus Stevens College of Technology.

(5) Any accredited private or independent college or university.

"Program." The Keystone State Challenge Academy.

"School entity." A school district, charter school, cyber charter school, regional charter school, intermediate unit or area vocational-technical school.

References in Text. Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-technical school" shall be deemed a reference to "area career and technical school," and a reference in statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical curriculums."

§ 9802. Program established.

To the extent funds are appropriated for the purposes provided under this chapter, the department shall establish a youth challenge program as provided for under 32 U.S.C. § 509 (relating to National Guard Youth Challenge Program of opportunities for civilian youth). The program shall be known as the Keystone State Challenge Academy.

§ 9803. Description of program.

(a) General rule.--The department shall develop program guidelines in consultation with the Department of Education. Consistent with 32 U.S.C. § 509(a) (relating to National Guard Youth Challenge Program of opportunities for civilian youth), the program shall seek to improve the life skills and employment potential of participants by providing military-based training and supervised work experience, together with the core program components of assisting participants to receive a high school diploma or its equivalent, leadership development, promoting fellowship and community service, developing life coping skills and job skills and improving physical fitness and health and hygiene. The department shall post the program guidelines on the home page of the department's publicly accessible Internet website and shall provide the guidelines to the Department of Education.

(b) Duties of Department of Education.--The Department of Education shall post the program guidelines on the home page of the publicly accessible Internet website of the Department of Education and shall annually distribute the guidelines and relevant program information to all school entities.

§ 9804. Length of program.

The program shall be for a period of time as set forth in 32 U.S.C. § 509(a) (relating to National Guard Youth Challenge Program of opportunities for civilian youth).

§ 9805. Participants.

Requirements for participation in the program shall be as prescribed by the United States Secretary of Defense under 32 U.S.C. § 509(e) (relating to National Guard Youth Challenge Program of opportunities for civilian youth).

§ 9806. Administration.

Subject to 32 U.S.C. § 509 (relating to National Guard Youth Challenge Program of opportunities for civilian youth) and its implementing regulations and applicable agreements, the program shall be staffed by the administrative, professional, technical

and clerical employees necessary for the operation of the program.

§ 9807. Funding.

The department shall apply for funding, as provided for under 32 U.S.C. § 509(d) (relating to National Guard Youth Challenge Program of opportunities for civilian youth). Under 32 U.S.C. § 509(j), the department may supplement such funding with other resources, including gifts, made available to the department and may also accept, use and dispose of gifts or donations of money, other property or services for the program.

§ 9808. Transferability of course credit.

All academic course credits earned by a program participant shall be recognized by any school entity in which the participant enrolls following completion of the program. The department, in consultation with the Department of Education, shall ensure that the program complies with all statutory and regulatory provisions as necessary to facilitate the transferability of course credit earned in the program to a school entity.

§ 9809. Advisory council.

(a) Establishment.--There is established an advisory council for the program. The advisory council shall consist of the following members and the Adjutant General, who shall serve as a nonvoting, ex officio member. Members of the advisory council shall be appointed as follows:

(1) Three members appointed by the Governor as follows:

(i) The Deputy Adjutant General - Army, or a designee.

(ii) The Deputy Adjutant General - Air, or a designee.

(iii) The Secretary of Education or a designee.

(2) Three members of the Senate appointed by the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate, with two appointees from the majority party and one appointee from the minority party.

(3) Three members of the House of Representatives appointed by the Speaker of the House of Representatives, in consultation with the Majority Leader and Minority Leader of the House of Representatives, with two appointees from the majority party and one appointee from the minority party.

(b) Terms.--Each member of the advisory council shall serve for the duration of the term of the appointing authority, provided that each member may be removed for cause by the member's appointing authority.

(c) Chairperson.--The advisory council shall annually elect a chairperson.

(d) Quorum.--Five members of the advisory council shall constitute a quorum for the purpose of conducting the business of the advisory council. The advisory council shall meet at least quarterly and at other times at the call of the chairperson.

(e) Compensation.--Members of the advisory council shall receive no compensation for their services but shall receive reimbursement for their necessary and proper expenses for attendance at meetings.

(f) Program operation.--The advisory council shall advise the Adjutant General and the department concerning the operation of the program.

§ 9810. Report.

The department shall submit annually to the chairperson and minority chairperson of the Education Committee of the Senate,

the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate, the chairperson and minority chairperson of the Education Committee of the House of Representatives and the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives a written report concerning the program. The report shall include, but not be limited to, all of the following:

(1) The number of individuals who applied to the program in the previous fiscal year.

(2) The number of individuals who participated in the program in the previous fiscal year.

(3) The number and percentage of program participants in the previous fiscal year who achieved each of the following:

(i) Earned a high school diploma or its equivalent.

(ii) Enrolled in a course of study at an institution of higher education.

(iii) Accepted a position of full-time, paid employment.

(iv) Accepted a position of part-time, paid employment.

(v) Entered the armed forces of the United States, including a reserve component or the National Guard.

(4) The demographic makeup of the applicants to, and participants in, the program, including, but not limited to, the following:

(i) Race.

(ii) Age.

(iii) Gender.

(5) Any information the department provides to the Secretary of Defense under 32 U.S.C. § 509(k) (relating to National Guard Youth Challenge Program of opportunities for civilian youth).

§ 9811. Audit required.

The department shall undergo an annual audit of the program. The audit shall be conducted by a qualified independent certified public accountant under generally accepted audit standards of the Governmental Accounting Standards Board. The audit shall be submitted to the following:

(1) The chairperson and minority chairperson of the Education Committee of the Senate.

(2) The chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate.

(3) The chairperson and minority chairperson of the Education Committee of the House of Representatives.

(4) The chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.

APPENDIX TO TITLE 51
MILITARY AFFAIRS

Supplementary Provisions of Amendatory Statutes

1990, DECEMBER 17, P.L.700, NO.174

Preamble

The General Assembly finds and declares as follows:

(1) It is the intention of the General Assembly, as a matter of public policy, to reaffirm the support of this Commonwealth for members of the National Guard and other reserve components of the armed forces of the United States.

(2) The General Assembly recognizes that today's National Guard and reserve component forces are essential elements of our nation's total force for national defense and that members of the National Guard and other reserve components of the armed forces of the United States may be called or ordered to active duties in support of a wide variety of military contingencies and operations throughout the world.

(3) The General Assembly recognizes that the Pennsylvania National Guard provides vital support for this Commonwealth by constituting a well-trained, equipped and disciplined military force to respond to emergencies and other contingencies within this Commonwealth.

(4) The General Assembly finds and declares that the laws of this Commonwealth, providing support for the National Guard and other reserve components of the armed forces of the United States, should be updated in light of the current duties and responsibilities of the National Guard and reserve component forces as part of the total force.

Explanatory Note. Act 174 added or amended sections 702, 902, 1906, 3105, 4102, 7302, 7303(c), 7309, 7312, 7313 and 7314 of Title 51.

1996, MARCH 21, P.L.39, NO.12

§ 3. Use of existing forms, stationery, etc.

The Department of Military and Veterans Affairs shall continue to use or recycle all forms, stationery, business cards and other office supplies or materials which contain references to its predecessor department until the existing supplies and materials are depleted.

Explanatory Note. Act 12 amended sections 701 and 9201 of Title 51.

§ 4. Continuation of current rules and regulations.

Regulations promulgated by the Adjutant General or the Department of Military Affairs heretofore shall remain in full force and effect as regulations of the Department of Military and Veterans Affairs and references in such regulations to the department or the Department of Military Affairs shall be deemed a reference to the Department of Military and Veterans Affairs. Within 30 days of enactment of this act, the Adjutant General shall cause notice of the change of the name of the department to be published in the Pennsylvania Bulletin.

1996, JUNE 19, P.L.344, NO.56

Preamble

The General Assembly finds and declares as follows:

(1) The Pennsylvania National Guard must recruit thousands of young Pennsylvanians each year to attain and

sustain its required troop strength to meet Federal manning requirements and to provide the Governor with a well-trained and organized military force to respond to emergencies in this Commonwealth.

(2) The men and women of the Pennsylvania National Guard face increasing leadership and technical challenges and the percentage of members of the National Guard with post-high school, college and technical education must be increased to meet these challenges.

(3) Currently available programs are not adequate to meet the financial needs of National Guard personnel who are pursuing a higher education or to attract young men and women into the National Guard who are high school graduates with the desire and ability to pursue their higher education in Commonwealth colleges and universities or business, trade and technical schools.

(4) The Pennsylvania National Guard needs a cadre of well-educated leaders to lead the Guard now and in the future.

(5) An innovative education assistance program will provide public service educational grants for members of the Pennsylvania National Guard and will keep Pennsylvania student soldiers in this Commonwealth and benefit Pennsylvania communities.

(6) An educational assistance program will reward those young Pennsylvanians who volunteer to serve their nation and Commonwealth as part of the Pennsylvania National Guard and will make this Commonwealth more competitive with other states and regular forces in the educational benefits offered to military personnel.

(7) The Educational Assistance Program is designed to provide public service educational grants to members of the Pennsylvania National Guard by means of grants administered by the Pennsylvania Higher Education Assistance Agency.

Explanatory Note. Act 56 repealed section 3104 and added Chapter 32 of Title 51.

§ 3. Educational grants.

(a) Continuation of tuition credit grants.--From appropriations to it for this purpose, the Department of Military Affairs may continue to pay tuition credit grants to members who, prior to the effective date of this act, received or applied for grants under 51 Pa.C.S. § 3104 for not more than three years after the effective date of this act.

(b) Pennsylvania National Guard.--A member of the Pennsylvania National Guard in an enlisted grade or in the grade of a warrant officer 1, warrant officer 2, first lieutenant or second lieutenant after completing a minimum enlistment period as defined by the Adjutant General, who enrolls in a Pennsylvania institution of higher learning, with degree-granting status as approved by the Department of Education, shall receive a grant of one-half the cost of the credit, with a maximum of $60 per credit while satisfactorily enrolled, with a maximum of six credits per quarter or semester or 12 credits per year.

(c) Certification by Adjutant General.--Grants shall be paid only upon certification each quarter or semester by the Adjutant General that the student is a current member in good standing with the Pennsylvania National Guard and that his current enlistment extends beyond the expiration date of the current quarter or semester.

(d) Annual appropriation.--The Department of Military Affairs shall administer the educational grants provided in this section from an appropriation made annually to the department for this purpose. The department may promulgate rules and regulations on the administration and management of this program. The grant program shall not exceed the amount of the appropriation. If the department determines that the amount appropriated will be insufficient to pay the grants in amounts set forth in subsection (b), the department shall reduce the amount of the grant payments proportionately so that the expenditures do not exceed the amounts appropriated.

(e) Eligibility.--No person shall receive a grant under this section if he is awarded a grant under 51 Pa.C.S. Ch. 32.

2007, DECEMBER 12, P.L.433, NO.66

§ 2. Applicability.

This act shall apply to fiscal years beginning on and after July 1, 2007, when and if funds are specifically appropriated to support the grant program established by this act. The appropriation to the Department of Military and Veterans Affairs for veterans outreach services in section 218 of the Act of July 17, 2007 (P.L.499, No.8A), known as the General Appropriation Act of 2007, shall be disbursed consistently with the provisions of this act.

Explanatory Note. Act 66 added section 9304 of Title 51.

2012, MAY 8, P.L.248, NO.36

§ 3. Continuation of prior law.

The addition of 51 Pa.C.S. Ch. 95 is a continuation of the act of October 9, 2008 (P.L.1413, No.114), known as the Long-Term Care Patient Access to Pharmaceuticals Act. The following apply:

(1) Except as otherwise provided in 51 Pa.C.S. Ch. 95, all activities initiated under the Long-Term Care Patient Access to Pharmaceuticals Act shall continue and remain in full force and effect and may be completed under 51 Pa.C.S. Ch. 95. Orders, regulations, rules and decisions which were made under the Long-Term Care Patient Access to Pharmaceuticals Act and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 51 Pa.C.S. Ch. 95. Contracts, obligations and collective bargaining agreements entered into under the Long-Term Care Patient Access to Pharmaceuticals Act are not affected nor impaired by the repeal of the Long-Term Care Patient Access to Pharmaceuticals Act.

(2) Except as set forth in paragraph (3), any difference in language between 51 Pa.C.S. Ch. 95 and the Long-Term Care Patient Access to Pharmaceuticals Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Long-Term Care Patient Access to Pharmaceuticals Act.

(3) Paragraph (2) does not apply to the addition of the following provisions of Title 51:

(i) Section 9502(3)(ii).

(ii) The definitions of "lockbox" and "means" in section 9503.

(iii) Section 9505(b)(7) introductory paragraph, (ii), (iii) and (iv) and (8).

Explanatory Note. Act 36 added Chapter 95 of Title 51.

2012, OCTOBER 24, P.L.1436, NO.181

§ 12. Applicability.

This act shall apply as follows:

(1) The amendment or addition of 51 Pa.C.S. § 7306(a) and (d) shall apply only to leaves of absence or military leaves of absence that are granted on or after the effective date of this section.

* * *

Explanatory Note. Act 181 amended section 7306 of Title 51 and sections 5102, 5302, 5303, 5304, 5306.3, 5307, 5308, 5505, 5506, 5507, 5509, 5706, 5707, 5902, 5905, 5906 and 5907 of Title 71.

§ 20. Requirements for qualification as qualified pension plan.

Nothing in this act which amends or supplements provisions of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV shall create in any member of the State Employees' Retirement System or in any other person claiming an interest in the account of any member a contractual right, either expressed or implied, in relation to requirements for qualification of the State Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), compliance with nor any construction of 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services), known as the Uniformed Services Employment and Reemployment Rights Act or 71 Pa.C.S. Pt. XXV, as amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may from time to time be required in order to maintain the qualification of the system as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and 38 U.S.C. Ch. 43.

2013, JULY 1, P.L.174, NO.32

§ 13. Applicability.

This act shall apply as follows:

* * *

(2) The amendment or addition of 51 Pa.C.S. § 7306(a) and (e) shall apply to leaves of absence or military leaves of absence that are granted on or after the effective date of this section.

Explanatory Note. Act 32 amended sections 8102, 8302, 8303, 8304, 8305.2, 8306, 8325, 8326, 8346, 8347, 8502, 8505, 8506 and 8507 of Title 24 and section 7306 of Title 51.

§ 20. Qualifications under Internal Revenue Code of 1986.

The following shall apply:

(1) The amendment of 51 Pa.C.S. § 7306 or 24 Pa.C.S. Pt. IV shall not:

(i) Create in any member of the Public School Employees' Retirement System or in any other person claiming an interest in the account of any member a contractual right, either expressed or implied, in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(ii) Establish compliance with or affect any construction of:

(A) 38 U.S.C. Ch. 43.

(B) 24 Pa.C.S. Pt. IV or any rules or regulations adopted under 24 Pa.C.S. Pt. IV.

(2) The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may be required in order to maintain the qualification of the system as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and 38 U.S.C. Ch. 43.

2016, NOVEMBER 3, P.L.1053, NO.135

§ 7. Status of certain businesses.

The amendment of 51 Pa.C.S. §§ 9601 and 9602 shall not affect nor impair the status of any of the following under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

(1) A veteran-owned small business.

(2) A service-disabled veteran-owned small business.

Explanatory Note. Act 135 added Chapter 72 and Subchapter A heading of Chapter 96, amended section 9601, added Subchapter B heading of Chapter 96, amended section 9602 and added Subchapter C of Chapter 96 of Title 51.

2017, JUNE 12, P.L.11, NO.5

§ 401. Applicability.

The following shall apply:

(1) The following provisions shall not create in a member of the Public School Employees' Retirement System, a participant in the School Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an express or implied contractual right in the provisions nor in a construction of 24 Pa.C.S. Pt. IV, 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S.:

(i) A provision of this act which amends 51 Pa.C.S. or 24 Pa.C.S. Pt. IV in relation to requirements for any of the following:

(A) (Reserved).

(B) Qualification of the School Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)), or compliance with the Uniformed Services Employment

and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149).

(C) Domestic relations orders regarding alternate payees of participants in the School Employees' Defined Contribution Plan.

(ii) A construction of 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or a term or provision of the School Employees' Defined Contribution Plan or School Employees' Defined Contribution Trust, established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the School Employees' Defined Contribution Plan or the School Employees' Defined Contribution Trust.

(2) The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations under those statutes, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may be required in order to maintain the qualification of the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act.

(3) The following provisions shall not create in a member of the State Employees' Retirement System, a participant in the State Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an expressed or implied contractual right in the provisions nor in a construction of 51 Pa.C.S. § 7306, 71 Pa.C.S. Pt. XXV, or rules or regulations adopted under 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV:

(i) A provision of this act which amends 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV, in relation to requirements for any of the following:

(A) Qualification of the State Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)).

(B) Compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

(C) Domestic relations orders regarding alternate payees of participants in the State Employees' Defined Contribution Plan.

(ii) A construction of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or rules or regulation promulgated under 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or a term or provision of the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust.

(4) The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations promulgated under those statutes.

(5) The General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions of 71 Pa.C.S. Pt. XXV in order to maintain the qualification of the State Employees' Retirement System and the State Employees' Defined Contribution Plan as qualified pension plans under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act.

Explanatory Note. Act 5 amended or added sections 8102, 8103, 8103.2, 8301, 8302, 8303, 8304, 8305, 8305.3, 8305.4, 8305.5, 8306, 8307, 8308, 8310, 8321, 8322.1, 8323, 8324, 8325.1, 8326, 8327, 8328, 8330, 8341, 8342, 8344, 8345, 8346, 8347 and 8349, Chapter 84, and sections 8501, 8502, 8502.2, 8503, 8505, 8506, 8507, 8521, 8522, 8524, 8525, 8531, 8533, 8533.1, 8533.2, 8533.3, 8533.4, 8533.5, 8534, 8535, 8535.1, 8537, 8538, 8702 of Title 24, section 7306 of Title 51 and sections 5102, 5103, 5104, 5301, 5302, 5303, 5303.2, 5304, 5305, 5305.1, 5306, 5306.1, 5306.2, 5306.3, 5306.4, 5306.5, 5307, 5308, 5308.1, 5309, 5310, 5311, 5501.1, 5502, 5503.1, 5504, 5505, 5506.1, 5507, 5508, 5509, 5701, 5701.1, 5702, 5704, 5705, 5705.1, 5706, 5707 and 5709, Chapter 58 and sections 5901, 5902, 5903, 5904, 5905, 5905.1, 5906, 5907, 5931, 5932, 5933, 5934, 5935, 5936, 5937, 5938, 5939, 5951, 5953, 5953.1, 5953.2, 5953.3, 5953.4, 5953.6, 5954, 5955, 5955.2, 5957 and 5958 of Title 71.