

MILITARY CODE (51 PA.C.S) - AMEND ABSENCE WITHOUT LEAVE

Act of Jan. 29, 1998, P.L. 36, No. 9

Cl. 51

Session of 1998

No. 1998-9

HB 441

AN ACT

Amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for absence without leave.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 6010 of Title 51 of the Pennsylvania Consolidated Statutes is amended to read:
§ 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;

[shall be punished as a court-martial may direct.] **is absent without leave and shall be punished as a court-martial directs, be subject to nonjudicial punishment or 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 \$50 nor more than \$200 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 a 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.

Section 2. This act shall take effect in 30 days.

APPROVED--The 29th day of January, A. D. 1998.

THOMAS J. RIDGE