

CHAPTER.....

AN ACT relating to military justice; conferring upon a person who is subject to the Nevada Code of Military Justice the right to demand a trial by court-martial in lieu of accepting nonjudicial punishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a commanding officer in the state military forces may, for minor offenses, impose certain punishments on certain members of the state military forces without convening a court-martial. (NRS 412.2875, 412.288) Existing law provides that such a member has the right to demand a trial by court-martial only if the punishment imposes a restraint of freedom through restriction and arrest in quarters. (NRS 412.2445, 412.2879) This bill expands the right of such a member to demand a trial by court-martial before the imposition of any punishment, including a nonjudicial punishment such as suspension from duty, forfeiture of pay or reduction in pay grade.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 412.243 is hereby amended to read as follows:
412.243 “Nonjudicial punishment” means punishment that is imposed:

1. Pursuant to NRS 412.286 to 412.302, inclusive;
2. Against an accused, through the chain of command, by the accused’s commanding officer or other officer in charge; and
3. Without ~~the need to convene~~ a *trial by* court-martial.

Sec. 2. NRS 412.2879 is hereby amended to read as follows:
412.2879 An accused facing nonjudicial punishment has the right to demand a trial by court-martial ~~only if the commanding officer who initiated the proceeding for nonjudicial punishment elects to impose restraint of freedom punishments. If, before an offer of nonjudicial punishment is made, the commanding officer elects not to impose restraint of freedom punishments, the accused has no right to demand a trial by court martial. If the commanding officer does not advise the accused serviceman or servicewoman of his or her right to reject the nonjudicial punishment and demand a trial by court martial on initiation of the nonjudicial punishment action, the commanding officer thereby waives the right to retain the restraint of freedom punishments.~~ *in lieu of accepting the*



nonjudicial punishment, at any time before the imposition of the nonjudicial punishment.

Sec. 3. NRS 412.293 is hereby amended to read as follows:

412.293 1. A commanding officer who, after preliminary inquiry, determines that ~~the nonjudicial punishment options will include restraint of freedom punishments~~ ***is appropriate for a particular serviceman or servicewoman*** shall use a formal proceeding.

2. If the commanding officer determines that a formal proceeding is appropriate, the accused must be notified in writing of:

(a) The intent of the commanding officer to initiate nonjudicial punishment;

(b) The intent of the commanding officer to use a formal proceeding;

(c) The maximum punishments allowable under the formal proceeding;

(d) The right of the accused to remain silent;

(e) Each offense that the accused has allegedly committed with reference to sections of the law that are alleged to have been violated;

(f) The right of the accused to confront witnesses, examine the evidence and submit matters in defense, extenuation and mitigation;

(g) The right of the accused to consult with a judge advocate and the location of such counsel;

(h) The right of the accused to demand a trial by court-martial at any time before the imposition of the nonjudicial punishment; and

(i) The right of the accused to appeal.

3. If the commanding officer determines that a formal proceeding is appropriate, the accused must be given a reasonable time to consult with counsel, to gather matters in defense, extenuation and mitigation and to decide whether to accept the nonjudicial punishment or demand a trial by court-martial. This decision period must be at least 48 hours, depending on the availability of counsel, but such period may be extended at the request of the accused.

4. The commanding officer is not bound by the formal rules of evidence before courts-martial and may consider any matter the commanding officer reasonably believes is relevant to the offense.

Sec. 4. NRS 412.2445 and 412.2925 are hereby repealed.

Sec. 5. The amendatory provisions of this act apply to any nonjudicial punishment which was imposed, but has not been executed, before July 1, 2015.



Sec. 6. This act becomes effective on July 1, 2015.

