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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 752

02/04/2021 Authored by Ecklund, Lislegard and Xiong, T.,
The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy
04/06/2021 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

A bill for an act

relating to state government; establishing a budget for military and veterans affairs; making policy and technical changes to various military and veterans affairs provisions including provisions related to the adjutant general, housing, veterans benefits, and veterans services; allowing deferred prosecutions for former and current military members in certain circumstances; classifying data; making changes to the military code; modifying certain requirements and qualifications; making jurisdictional and appellate changes; providing punishable offenses under the military code; providing penalties; appropriating money; amending Minnesota Statutes 2020, sections 10.578; 15.057; 190.07; 192.67; 192A.02, subdivision 2; 192A.021; 192A.111; 192A.15, subdivisions 1, 2; 192A.155, subdivision 2; 192A.20; 192A.235, subdivision 3; 192A.343, subdivision 3; 192A.353, subdivision 2; 192A.371; 192A.384; 192A.56; 192A.612; 192A.62; 197.791, subdivisions 4, 5, 5a, 5b; 198.006; 198.03, subdivision 2; 606.06; proposing coding for new law in Minnesota Statutes, chapters 192A; 196; 609; repealing Minnesota Statutes 2020, section 192A.385.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

APPROPRIATIONS

Section 1. **STATE GOVERNMENT APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023.

		APPROPRIATIONS Available for the Year Ending June 30	
		2022	2023
Sec. 2. **MILITARY AFFAIRS**			
Subdivision 1. **Total Appropriation**	$	**24,393,000**	$ **24,589,000**
The amounts that may be spent for each purpose are specified in the following subdivisions.			
Subd. 2. **Maintenance of Training Facilities**		9,772,000	9,842,000
Subd. 3. **General Support**		3,507,000	3,633,000
Subd. 4. **Enlistment Incentives**		11,114,000	11,114,000
The appropriations in this subdivision are available until June 30, 2025, except that any unspent amounts allocated to a program otherwise supported by this appropriation are canceled to the general fund upon receipt of federal funds in the same amount to support administration of that program.			
If the amount for fiscal year 2022 is insufficient, the amount for 2023 is available in fiscal year 2022. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.			
Sec. 3. **VETERANS AFFAIRS**			
Subdivision 1. **Total Appropriation**	$	**84,168,000**	$ **84,364,000**
The amounts that may be spent for each purpose are specified in the following subdivisions.			

Subd. 2. **Veterans Programs and Services** 22,048,000 21,678,000

(a) **CORE Program.** $750,000 each year is for the Counseling and Case Management Outreach Referral and Education (CORE) program.

(b) **Veterans Service Organizations.** $500,000 each year is for grants to the following congressionally chartered veterans service organizations as designated by the commissioner: Disabled American Veterans, Military Order of the Purple Heart, the American Legion, Veterans of Foreign Wars, Vietnam Veterans of America, AMVETS, and Paralyzed Veterans of America. This funding must be allocated in direct proportion to the funding currently being provided by the commissioner to these organizations.

(c) **Minnesota Assistance Council for Veterans.** $750,000 each year is for a grant to the Minnesota Assistance Council for Veterans to provide assistance throughout Minnesota to veterans and their families who are homeless or in danger of homelessness, including assistance with the following:

(1) utilities;

(2) employment; and

(3) legal issues.

The assistance authorized under this paragraph must be made only to veterans who have resided in Minnesota for 30 days prior to application for assistance and according to other guidelines established by the commissioner. In order to avoid duplication of services, the commissioner must ensure that

this assistance is coordinated with all other available programs for veterans.

(d) **State's Veterans Cemeteries.** $1,672,000 each year is for the state's veterans cemeteries.

(e) **Honor Guards.** $200,000 each year is for compensation for honor guards at the funerals of veterans under Minnesota Statutes, section 197.231.

(f) **Minnesota GI Bill.** $200,000 each year is for the costs of administering the Minnesota GI Bill postsecondary educational benefits, on-the-job training, and apprenticeship program under Minnesota Statutes, section 197.791.

(g) **Gold Star Program.** $100,000 each year is for administering the Gold Star Program for surviving family members of deceased veterans.

(h) **County Veterans Service Office.** $1,100,000 each year is for funding the County Veterans Service Office grant program under Minnesota Statutes, section 197.608.

(i) **Veteran Homelessness Initiative.** $3,018,000 each year is for an initiative to prevent and end veteran homelessness. The commissioner of veterans affairs may provide housing vouchers and other services to alleviate homelessness among veterans and former service members in Minnesota. The commissioner may contract for program administration and may establish a vacancy reserve fund. The base for this appropriation is $1,311,000 in fiscal year 2024 and $1,311,000 in fiscal year 2025.

(j) **Independent Lifestyles.** $75,000 each year is appropriated for an ongoing annual grant to Independent Lifestyles, Inc., for expenses related to retreats for military veterans at Camp Bliss in Walker, Minnesota, including therapy, transportation, and activities customized for military veterans.

(k) **Veterans On The Lake.** $50,000 in fiscal year 2022 is appropriated for a grant to Veterans on the Lake for expenses related to retreats for veterans including therapy, transportation, and activities customized for veterans.

(l) **Disabled Veterans Rest Camp.** $128,000 in fiscal year 2022 is appropriated for a grant to the Disabled Veterans Rest Camp on Big Marine Lake in Washington County for landscape improvements around the new cabins, including a retaining wall around a water drainage holding pond and security fencing with vehicle control gates along the entrance road. This is a onetime appropriation and is available until the project is completed or abandoned, subject to Minnesota Statutes, section 16A.642.

Subd. 3. **9/11 Task Force** 400,000

$400,000 the first year is for the Advisory Task Force on 9/11 and Global War on Terrorism Remembrance. The task force must collect, memorialize, and publish stories of Minnesotans' service in the Global War on Terrorism and impacts on their dependents. The task force must host a remembrance program in September 2021. This is a onetime appropriation.

Subd. 4. **Veterans Health Care**		62,120,000	62,686,000

(a) **Transfers.** These appropriations may be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the commissioner of veterans affairs for the operation of veterans homes facilities and programs.

(b) **Report.** No later than January 15, 2022, the commissioner must submit a report to the legislative committees with jurisdiction over veterans affairs and state government finance on reserve amounts maintained in the veterans homes special revenue account. The report must detail current and historical amounts maintained as a reserve and uses of those amounts. The report must also include data on the use of existing veterans homes, including current and historical bed capacity and usage, staffing levels and staff vacancy rates, and staff-to-resident ratios.

(c) **Maximize Federal Reimbursements.** The department shall seek opportunities to maximize federal reimbursements of Medicare-eligible expenses and provide annual reports to the commissioner of management and budget on the federal Medicare reimbursements received. Contingent upon future federal Medicare receipts, reductions to the homes' general fund appropriation may be made.

Subd. 5. **Veteran Suicide Prevention Initiative** $1,000,000 $650,000

$1,000,000 the first year and $650,000 the second year is to address the problem of death by suicide among veterans in Minnesota. The commissioner of veterans affairs may use funds for personnel, training, research, marketing, and professional or technical contracts. The base for this appropriation is $550,000 in fiscal year 2024 and $550,000 in fiscal year 2025.

Subd. 6. **Veterans Resilience Project; Report** 50,000 50,000

$50,000 each year is appropriated for a grant to the veterans resilience project. Grant funds must be used to make eye movement desensitization and reprocessing therapy available to veterans and current military service members who are suffering from posttraumatic stress disorder and trauma.

The veterans resilience project must report to the commissioner of veterans affairs and the chairs and ranking minority members of the legislative committees with jurisdiction over veterans affairs policy and finance by January 15 of each year on the program. The report must include: an overview of the program's budget; a detailed explanation of program expenditures; the number of veterans and service members served by the program; and a list and explanation of the services provided to program participants.

ARTICLE 2
VETERANS POLICY

Section 1. Minnesota Statutes 2020, section 10.578, is amended to read:

10.578 VETERANS SUICIDE PREVENTION AND AWARENESS DAY.

The first Saturday of every October is designated Veterans Suicide Prevention and Awareness Day. Each year, the governor shall issue a proclamation honoring this observance. Each year in conjunction with this observance, the commissioner of veterans affairs shall coordinate activities that raise awareness of, and promote the prevention of, veteran suicides.

Sec. 2. Minnesota Statutes 2020, section 15.057, is amended to read:

15.057 PUBLICITY REPRESENTATIVES.

No state department, bureau, or division, whether the same operates on funds appropriated or receipts or fees of any nature whatsoever, except the Department of Veterans Affairs, the Department of Transportation, the Department of Employment and Economic Development, the Game and Fish Division, State Agricultural Society, and Explore Minnesota Tourism shall use any of such funds for the payment of the salary or expenses of a publicity representative. The head of any such department, bureau, or division shall be personally liable for funds used contrary to this provision. This section shall not be construed, however, as preventing any such department, bureau, or division from sending out any bulletins or other publicity required by any state law or necessary for the satisfactory conduct of the business for which such department, bureau, or division was created.

Sec. 3. Minnesota Statutes 2020, section 190.07, is amended to read:

190.07 APPOINTMENT; QUALIFICATIONS; RANK; TERM; VACANCY.

Subdivision 1. **Qualifications.** There shall be an adjutant general of the state who shall be appointed by the governor within 120 days of a vacancy of the position. The adjutant general shall be a staff officer, who at the time of appointment shall be a commissioned officer of the National Guard ~~of this state, with not less than ten years military service in the National Guard of this state or the armed forces of the United States, at least three of which shall have been commissioned~~ and who shall have reached, at a minimum, the ~~grade of a field officer~~ rank of colonel (O-6).

Subd. 2. **Rank.** The adjutant general shall be promoted, if necessary, directly to and shall hold ~~at least~~ the rank of major general ~~and may be promoted to and including the highest rank authorized under federal law. However, the adjutant general may not be~~

~~promoted to the rank of major general without having at least 20 years service in the Minnesota National Guard, at least one of which has been in the rank of brigadier general~~. If not already a major general, the adjutant general's promotion is effective beginning on the date the governor appoints the adjutant general. At the time of appointment and in accordance with the authorities governing federal recognition of officers, the adjutant general is authorized to wear the rank of major general.

Subd. 3. **Term.** The term of the adjutant general is for a single term of seven years from the date of appointment. ~~Section 15.06, subdivisions 3, 4, and 5, governs filling of vacancies in the Office of Adjutant General.~~ The adjutant general shall not be removed from office during a term except upon withdrawal of federal recognition or as otherwise provided by the military laws of this state.

Subd. 4. **Vacancy; acting or temporary adjutant general.** In the event of a vacancy of the adjutant general, the governor may appoint a person qualified under subdivision 1 as an acting adjutant general. If the governor does not appoint an acting adjutant general, the deputy adjutant general as defined in section 190.09, subdivision 1, shall become temporary adjutant general without further official action. Upon taking office, the acting or temporary adjutant general shall have all the powers and emoluments and perform all the duties of the office of adjutant general until a permanent adjutant general is appointed.

Sec. 4. **[196.081] VETERANS STABLE HOUSING INITIATIVE; DATA.**

(a) The commissioner may establish a veterans stable housing initiative. If the commissioner establishes a veterans stable housing initiative under this section, the commissioner must provide resources and support to assist veterans experiencing homelessness in obtaining or maintaining stable housing.

(b) Data on individuals maintained by the commissioner in the Homeless Veteran Registry for purposes of the veterans stable housing initiative is private data on individuals as defined in section 13.02, subdivision 12, and must not be disclosed or shared except for coordinating homelessness prevention efforts with:

(1) members of the Minnesota Interagency Council on Homelessness; and

(2) Homeless Veteran Registry partners to address a veteran's episode of homelessness or maintain a veteran's housing plan through Department of Veterans Affairs funded programs.

(c) For purposes of this section, "homelessness" means that a veteran lacks a fixed, nighttime residence.

Sec. 5. Minnesota Statutes 2020, section 197.791, subdivision 4, is amended to read:

Subd. 4. **Eligibility.** (a) A person is eligible for educational assistance under ~~subdivisions~~ subdivision 5 ~~and 5a~~ if:

(1) the person is:

(i) a veteran who is serving or has served honorably in any branch or unit of the United States armed forces at any time;

(ii) a nonveteran who has served honorably for a total of five years or more cumulatively as a member of the Minnesota National Guard or any other active or reserve component of the United States armed forces, and any part of that service occurred on or after September 11, 2001;

(iii) the surviving spouse or child of a person who has served in the military and who has died as a direct result of that military service, only if the surviving spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; or

(iv) the spouse or child of a person who has served in the military at any time and who has a total and permanent service-connected disability as rated by the United States Veterans Administration, only if the spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; and

(2) the person receiving the educational assistance is a Minnesota resident, as defined in section 136A.101, subdivision 8; and

(3) the person receiving the educational assistance:

(i) is an undergraduate or graduate student at an eligible institution;

(ii) is maintaining satisfactory academic progress as defined by the institution for students participating in federal Title IV programs;

(iii) is enrolled in an education program leading to a certificate, diploma, or degree at an eligible institution;

(iv) has applied for educational assistance under this section prior to the end of the academic term for which the assistance is being requested;

(v) is in compliance with child support payment requirements under section 136A.121, subdivision 2, clause (5); and

(vi) has completed the Free Application for Federal Student Aid (FAFSA).

(b) A person's eligibility terminates when the person becomes eligible for benefits under section 135A.52.

(c) To determine eligibility, the commissioner may require official documentation, including the person's federal form DD-214 or other official military discharge papers; correspondence from the United States Veterans Administration; birth certificate; marriage certificate; proof of enrollment at an eligible institution; signed affidavits; proof of residency; proof of identity; or any other official documentation the commissioner considers necessary to determine eligibility.

(d) The commissioner may deny eligibility or terminate benefits under this section to any person who has not provided sufficient documentation to determine eligibility for the program. An applicant may appeal the commissioner's eligibility determination or termination of benefits in writing to the commissioner at any time. The commissioner must rule on any application or appeal within 30 days of receipt of all documentation that the commissioner requires. The decision of the commissioner regarding an appeal is final. However, an applicant whose appeal of an eligibility determination has been rejected by the commissioner may submit an additional appeal of that determination in writing to the commissioner at any time that the applicant is able to provide substantively significant additional information regarding the applicant's eligibility for the program. An approval of an applicant's eligibility by the commissioner following an appeal by the applicant is not retroactively effective for more than one year or the semester of the person's original application, whichever is later.

(e) Upon receiving an application with insufficient documentation to determine eligibility, the commissioner must notify the applicant within 30 days of receipt of the application that the application is being suspended pending receipt by the commissioner of sufficient documentation from the applicant to determine eligibility.

Sec. 6. Minnesota Statutes 2020, section 197.791, subdivision 5, is amended to read:

Subd. 5. **Educational assistance ~~amount~~.** (a) On approval by the commissioner of eligibility for the program, the applicant shall be awarded, on a funds-available basis, the educational assistance under the program for use at any time according to program rules at any eligible institution.

(b) The amount of educational assistance in any semester or term for an eligible person must be determined by subtracting from the eligible person's cost of attendance the amount the person received or was eligible to receive in that semester or term from:

(1) the federal Pell Grant;

(2) the state grant program under section 136A.121; and

(3) any federal military or veterans educational benefits including but not limited to the Montgomery GI Bill, GI Bill Kicker, the federal tuition assistance program, vocational rehabilitation benefits, and any other federal benefits associated with the person's status as a veteran, except veterans disability payments from the United States Department of Veterans ~~Administration and payments made under the Veterans Retraining Assistance Program (VRAP)~~ Affairs.

(c) The amount of educational assistance for any eligible person who is a full-time student must not exceed the following:

(1) $3,000 per state fiscal year; and

(2) $10,000 in a lifetime.

(d) For a part-time student, the amount of educational assistance must not exceed $500 per semester or term of enrollment. For the purpose of this paragraph, a part-time undergraduate student is a student taking fewer than 12 credits or the equivalent for a semester or term of enrollment and a part-time graduate student is a student considered part time by the eligible institution the graduate student is attending. The minimum award for undergraduate and graduate students is $50 per term.

Sec. 7. Minnesota Statutes 2020, section 197.791, subdivision 5a, is amended to read:

Subd. 5a. **Apprenticeship and on-the-job training.** (a) The commissioner, in consultation with the commissioners of employment and economic development and labor and industry, shall develop and implement an apprenticeship and on-the-job training program to administer a portion of the Minnesota GI Bill program to pay benefit amounts to eligible persons, as provided in this subdivision.

(b) An "eligible employer" means an employer operating a qualifying apprenticeship or on-the-job training program that has been approved by the commissioner.

~~(c) A person is eligible for apprenticeship and on-the-job training assistance under this subdivision if the person meets the criteria established under subdivision 4, paragraph (a). The commissioner may determine eligibility as provided in subdivision 4, paragraph (c), and may deny or terminate benefits as prescribed under subdivision 4, paragraphs (d) and (e). The amount of assistance paid to or on behalf of an eligible individual under this subdivision must not exceed the following:~~

(c) A person is eligible for apprenticeship and on-the-job training assistance under this subdivision if the person is:

(1) a veteran who is serving or has served honorably in any branch or unit of the United States armed forces at any time;

(2) a nonveteran who has served honorably for a total of five years or more cumulatively as a member of the Minnesota National Guard or any other active or reserve component of the United States armed forces, and any part of that service occurred on or after September 11, 2001;

(3) the surviving spouse or child of a person who has served in the military and who has died as a direct result of that military service, only if the surviving spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; or

(4) the spouse or child of a person who has served in the military at any time and who has a total and permanent service-connected disability as rated by the United States Veterans Administration, only if the spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35.

(d) The amount of assistance paid to or on behalf of an eligible individual under this subdivision must not exceed the following:

(1) $3,000 per fiscal year for apprenticeship expenses;

(2) $3,000 per fiscal year for on-the-job training;

(3) $1,000 for a job placement credit payable to an eligible employer upon hiring and completion of six consecutive months' employment of a person receiving assistance under this subdivision; and

(4) $1,000 for a job placement credit payable to an eligible employer after a person receiving assistance under this subdivision has been employed by the eligible employer for at least 12 consecutive months as a full-time employee.

(e) No more than $5,000 in aggregate benefits under this ~~paragraph~~ subdivision may be paid to or on behalf of an individual in one fiscal year~~, and not more than $10,000 in aggregate benefits under this paragraph may be paid to or on behalf of an individual over any period of time~~.

(f) If an eligible person receives benefits under subdivision 5 or 5b, the eligible person's aggregate benefits under this subdivision, subdivisions 5, and 5b, must not exceed $10,000 in the eligible person's lifetime.

~~(d)~~ (g) Assistance for apprenticeship expenses and on-the-job training is available for qualifying programs, which must, at a minimum, meet the following criteria:

(1) the training must be with an eligible employer;

(2) the training must be documented and reported;

(3) the training must reasonably be expected to lead to an entry-level position; and

(4) the position must require at least six months of training to become fully trained.

Sec. 8. Minnesota Statutes 2020, section 197.791, subdivision 5b, is amended to read:

Subd. 5b. **Additional professional or educational benefits.** (a) The commissioner shall develop and implement a program to administer a portion of the Minnesota GI Bill program to pay additional benefit amounts to eligible persons as provided under this subdivision.

~~(b) A person is eligible for additional benefits under this subdivision if the person meets the criteria established under subdivision 4, paragraph (a), clause (1). The commissioner may determine eligibility as provided in subdivision 4, paragraph (c), and may deny or terminate benefits as prescribed under subdivision 4, paragraphs (d) and (e). The amount of assistance paid to or on behalf of an eligible individual under this subdivision must not exceed the following amounts:~~

(b) A person is eligible for additional benefits under this subdivision if the person is:

(1) a veteran who is serving or has served honorably in any branch or unit of the United States armed forces at any time;

(2) a nonveteran who has served honorably for a total of five years or more cumulatively as a member of the Minnesota National Guard or any other active or reserve component of the United States armed forces, and any part of that service occurred on or after September 11, 2001;

(3) the surviving spouse or child of a person who has served in the military and who has died as a direct result of that military service, only if the surviving spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; or

(4) the spouse or child of a person who has served in the military at any time and who has a total and permanent service-connected disability as rated by the United States Veterans Administration, only if the spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35.

(c) The amount of assistance paid to or on behalf of an eligible individual under this subdivision must not exceed the following amounts:

(1) $3,000 per state fiscal year; and

(2) $10,000 in a lifetime.

(d) If an eligible person receives benefits under subdivision 5 or 5a, the eligible person's aggregate benefits under this subdivision, subdivisions 5, and 5a, must not exceed $10,000 in the eligible person's lifetime.

~~(c)~~ (e) A person eligible under this subdivision may use the benefit amounts for the following purposes:

(1) licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided that the tests and the licensing or credentialing organizations or entities that offer the tests are approved by the commissioner;

(2) tests for admission to institutions of higher learning or graduate schools;

(3) national tests providing an opportunity for course credit at institutions of higher learning;

(4) a preparatory course for a test that is required or used for admission to an institution of higher education or a graduate program; and

(5) any fee associated with the pursuit of a professional or educational objective specified in clauses (1) to (4).

~~(d) If an eligible person receives benefits under subdivision 5, the eligible person's aggregate benefits under this subdivision and subdivision 5 must not exceed $10,000 in the eligible person's lifetime.~~

~~(e) If an eligible person receives benefits under subdivision 5a, the eligible person's aggregate benefits under this subdivision and subdivision 5a must not exceed $10,000 in the eligible person's lifetime.~~

Sec. 9. Minnesota Statutes 2020, section 198.006, is amended to read:

198.006 SUPPLEMENTAL PROGRAMS.

(a) The commissioner ~~shall~~ must work with federal, state, local, and private agencies to develop alternative institutional and noninstitutional care programs for veterans to supplement the mission of the homes. Veterans shall be afforded the least restrictive, most appropriate level of care available.

(b) The commissioner may provide adult day care center programs that offer therapeutic and rehabilitation health care services to veterans and support services for caregivers of veterans. If the commissioner provides adult day care center programs, the commissioner may collect fees from program participants. The commissioner is authorized to apply for and accept federal funding for purposes of this paragraph.

(c) The commissioner may work with federal, state, local, and private entities to make available appropriate dental services for veterans homes residents. The commissioner may engage with the United States Department of Veterans Affairs to support the dental benefits program authorized under this paragraph.

Sec. 10. Minnesota Statutes 2020, section 198.03, subdivision 2, is amended to read:

Subd. 2. **Cost of care.** The commissioner shall set out in rules the method of calculating the average cost of care for the domiciliary and nursing care residents. The cost must be determined yearly based upon the average cost per resident taking into account, but not limited to, administrative cost of the homes, the cost of service available to the resident, and food and lodging costs. These average costs must be calculated separately for domiciliary and nursing care residents. The amount charged each resident for maintenance, if anything, must be based on the appropriate average cost of care calculation and the assets and income of the resident but must not exceed the appropriate average cost of care.

Beginning July 1, 2021, the Personal Needs Allowance (PNA) for domiciliary residents shall be based on the Minnesota Department of Human Services' (DHS) most recent General Assistance program PNA and will be in effect the same date as the DHS PNA is in effect. Thereafter, the PNA must be adjusted and put into effect each year or each time DHS adjusts the PNA.

Sec. 11. **[609.1056] MILITARY VETERANS; CRIMES COMMITTED BECAUSE OF CONDITIONS RESULTING FROM SERVICE; DISCHARGE AND DISMISSAL.**

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

(1) "applicable condition" means sexual trauma, traumatic brain injury, posttraumatic stress disorder, substance abuse, or a mental health condition;

(2) "eligible offense" means any misdemeanor or gross misdemeanor, and any felony that is ranked at severity level 7 or lower or D7 or lower on the Sentencing Guidelines grid;

(3) "pretrial diversion" means the decision of a prosecutor to refer a defendant to a diversion program on condition that the criminal charges against the defendant shall be dismissed after a specified period of time, or the case shall not be charged, if the defendant successfully completes the program of treatment recommended by the United States Department of Veterans Affairs or a local, state, federal, or private nonprofit treatment program; and

(4) "veterans treatment court program" means a program that has the following essential characteristics:

(i) the integration of services in the processing of cases in the judicial system;

(ii) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(iii) early identification and prompt placement of eligible participants in the program;

(iv) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(v) careful monitoring of treatment and services provided to program participants;

(vi) a coordinated strategy to govern program responses to participants' compliance;

(vii) ongoing judicial interaction with program participants;

(viii) monitoring and evaluation of program goals and effectiveness;

(ix) continuing interdisciplinary education to promote effective program planning, implementation, and operations;

(x) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs; and

(xi) inclusion of a participant's family members who agree to be involved in the treatment and services provided to the participant under the program.

Subd. 2. **Deferred prosecution.** (a) The court shall defer prosecution for an eligible offense committed by a defendant who was, or currently is, a member of the United States military as provided in this subdivision. The court shall do this at the request of the defendant upon a finding of guilty after trial or upon a guilty plea.

(b) A defendant who requests to be sentenced under this subdivision shall release or authorize access to military service reports and records relating to the alleged applicable condition. The court must file the records as confidential and designate that they remain sealed, except as provided in this paragraph. In addition, the court may request, through existing resources, an assessment of the defendant. The defendant, through existing records or licensed professional evaluation, shall establish the diagnosis of the condition, that it was caused by military service, and that the offense was committed as a result of the condition. The court, on its own motion or the prosecutor's motion, with notice to defense counsel, may order the defendant to furnish to the court for in-camera review or to the prosecutor copies of all medical and military service reports and records previously or subsequently made concerning the defendant's condition and its connection to service.

(c) Based on the record, the court shall determine whether, by clear and convincing evidence: (1) the defendant suffered from an applicable condition at the time of the offense; (2) the applicable condition was caused by service in the United States military; and (3) the offense was committed as a result of the applicable condition. Within 15 days of the court's determination, either party may file a challenge to the determination and demand a hearing on the defendant's eligibility under this subdivision.

(d) If the court makes the determination described in paragraph (c), the court shall, without entering a judgment of guilty, defer further proceedings and place the defendant on probation upon such reasonable conditions as it may require and for a period not to exceed the maximum period provided by law. A court may extend a defendant's term of probation pursuant to section 609.135, subdivision 2, paragraphs (g) and (h). Conditions ordered by the court must include treatment, services, rehabilitation, and education sufficient so that if completed, the defendant would be eligible for discharge and dismissal under subdivision 3. In addition, the court shall order that the defendant undergo a chemical use assessment that includes a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

(e) If the court determines that the defendant is eligible for a deferred sentence but the defendant has previously received one for a felony offense under this subdivision, the court may, but is not required to, impose a deferred sentence. If the court does not impose a deferred sentence, the court may sentence the defendant as otherwise provided in law, including as provided in subdivision 4.

(f) Upon violation of a condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in law, including as provided in subdivision 4.

(g) As a condition of probation, the court may order the defendant to attend a local, state, federal, or private nonprofit treatment program for a period not to exceed the maximum period for which the defendant could have been incarcerated.

(h) The court, when issuing an order under this subdivision that a defendant attend an established treatment program, shall give preference to a treatment program that has a history of successfully treating veterans who suffer from applicable conditions caused by military service, including but not limited to programs operated by the United States Department of Defense or Veterans Affairs.

(i) The court and any assigned treatment program shall collaborate with, when available, the county veterans service officer and the United States Department of Veterans Affairs to maximize benefits and services provided to the defendant.

(j) If available in the county or judicial district having jurisdiction over the case, the defendant may be supervised by a veterans treatment court program under subdivision 5. If there is a veterans treatment court that meets the requirements of subdivision 5 in the county in which the defendant resides or works, supervision of the defendant may be transferred to that county or judicial district veterans treatment court program. Upon the defendant's successful or unsuccessful completion of the program, the veterans treatment court program shall communicate this information to the court of original jurisdiction for further action.

(k) Sentencing pursuant to this subdivision waives any right to administrative review pursuant to section 169A.53, subdivision 1, or judicial review pursuant to section 169A.53, subdivision 2, for a license revocation or cancellation imposed pursuant to section 169A.52, and also waives any right to administrative review pursuant to section 171.177, subdivision 10, or judicial review pursuant to section 171.177, subdivision 11, for a license revocation or cancellation imposed pursuant to section 171.177, if that license revocation or cancellation is the result of the same incident that is being sentenced.

Subd. 3. **Discharge and dismissal.** (a) Upon the expiration of the period of the defendant's probation the court shall hold a hearing to discharge the defendant from probation and determine whether to dismiss the proceedings against a defendant who received a deferred sentence under subdivision 2. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issue of dismissal. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The defendant must be present at the hearing unless excused under Minnesota Rules of Criminal Procedure, rule 26.03, subdivision 1, clause (3).

(b) The court shall provide notice to any identifiable victim of the offense at least 15 days before the hearing is held. Notice to victims of the offense under this subdivision must specifically inform the victim of the right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a result of the crime and the victim's recommendation on whether dismissal should be granted or denied. The judge shall consider the victim's statement when making a decision. If a victim notifies the prosecutor of an objection to dismissal and is not present at the hearing, the prosecutor shall make the objections known to the court.

(c) The court shall dismiss proceedings against a defendant if the court finds by clear and convincing evidence that the defendant:

(1) is in substantial compliance with the conditions of probation;

(2) has successfully participated in court-ordered treatment and services to address the applicable condition caused by military service;

(3) does not represent a danger to the health or safety of victims or others; and

(4) has demonstrated significant benefit from court-ordered education, treatment, or rehabilitation to clearly show that a discharge and dismissal under this subdivision is in the interests of justice.

(d) In determining the interests of justice, the court shall consider, among other factors, all of the following:

(1) the defendant's completion and degree of participation in education, treatment, and rehabilitation as ordered by the court;

(2) the defendant's progress in formal education;

(3) the defendant's development of career potential;

(4) the defendant's leadership and personal responsibility efforts;

(5) the defendant's contribution of service in support of the community;

(6) the level of harm to the community from the offense; and

(7) the statement of the victim, if any.

(e) If the court finds that the defendant does not qualify for discharge and dismissal under paragraph (c), the court shall enter an adjudication of guilt and proceed as otherwise provided in law, including as provided in subdivision 4.

(f) Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of the discharge and dismissal shall be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the defendant. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open the not public record under this paragraph. The court shall forward a record of any discharge and dismissal under this subdivision to the bureau, which shall make and maintain the not public record of the discharge and dismissal. The discharge and dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose. For purposes of this paragraph, "not public" has the meaning given in section 13.02, subdivision 8a.

Subd. 4. **Sentencing departure; waiver of mandatory sentence.** (a) This subdivision applies to defendants who plead or are found guilty of any criminal offense except one for which registration is required under section 243.166, subdivision 1b.

(b) Prior to sentencing, a defendant described in paragraph (a) may present proof to the court that the defendant has, since the commission of the offense, engaged in rehabilitative efforts consistent with those described in this section. If the court determines that the defendant has engaged in substantial rehabilitative efforts and the defendant establishes by clear and convincing evidence that:

(1) the defendant suffered from an applicable condition at the time of the offense;

(2) the applicable condition was caused by service in the United States military; and

(3) the offense was committed as a result of the applicable condition;

the court may determine that the defendant is particularly amenable to probation and order a mitigated durational or dispositional sentencing departure or a waiver of any statutory mandatory minimum sentence applicable to the defendant.

Subd. 5. **Optional veterans treatment court program; procedures for eligible defendants.** A county or judicial district may supervise probation under this section through a veterans treatment court, using county veterans service officers appointed under sections 197.60 to 197.606, United States Department of Veterans Affairs veterans justice outreach specialists, probation agents, and any other rehabilitative resources available to the court.

Subd. 6. **Creation of county and city diversion programs; authorization.** Any county or city may establish and operate a veterans pretrial diversion program for offenders eligible under subdivision 2 without penalty under section 477A.0175.

Subd. 7. **Exception.** This section does not apply to a person charged with an offense for which registration is required under section 243.166, subdivision 1b.

EFFECTIVE DATE. This section is effective August 1, 2021, and applies to crimes committed on or after that date.

Sec. 12. **REVISOR INSTRUCTION.**

The revisor of statutes must renumber the provisions of Minnesota Statutes listed in column A to the references listed in column B. The revisor must also make necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the renumbering.

Column A	Column B
197.791, subdivision 5a	197.791, subdivision 6
197.791, subdivision 5b	197.791, subdivision 7
197.791, subdivision 6	197.791, subdivision 8

ARTICLE 3
DATA ACCESS

Section 1. Minnesota Statutes 2020, section 192.67, is amended to read:

192.67 OFFENDERS; TRANSFER TO CIVIL AUTHORITIES; SERVICE MEMBER DATA.

Subdivision 1. **Transfer to civil authorities.** When any ~~felony~~ criminal offense is committed by any officer or enlisted member of the military forces while on duty status other than ~~active state~~ federal duty, the officer or enlisted member shall be turned over by

superior officers to the proper civil authorities of the county or municipality in which the offense occurred for punishment for such crime, but such trial and punishment by the civil authorities shall not preclude trial and additional punishment or dismissal from the service by court-martial for any military offense resulting from the commission of said crime.

Subd. 2. **Service member data.** Notwithstanding any provision of chapter 13 or other state law, all investigative reports and law enforcement data, including but not limited to all data collected and defined under section 13.82 pertaining to any service member of the military forces must be made accessible to the adjutant general of the Minnesota National Guard upon request of the Office of the State Judge Advocate. All information, data, and records obtained under this subdivision may be accessed, copied, transmitted, or provided to the adjutant general without a court order or request from the subject of the data when the matter involves any officer or enlisted member of the military forces. The adjutant general may only use data made accessible under this subdivision in support of military justice and Minnesota National Guard administrative and disciplinary actions.

ARTICLE 4
BAR ADMISSION; JUDICIAL QUALIFICATIONS

Section 1. **[192A.041] PRACTICE OF MILITARY LAW.**

Any commissioned officer of a United States state or territory military force who meets the following qualifications may be accepted by the state judge advocate to conduct any and all administrative or Minnesota Code of Military Justice activities under this code and is exempt from section 481.02:

(1) has served as a member of the Judge Advocate Generals Corps for not less than two years;

(2) is currently certified as competent for such duty by the Judge Advocate General of the military force of which the individual is a member; and

(3) is a member of good standing of the bar of the highest court of any state.

Sec. 2. Minnesota Statutes 2020, section 192A.15, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** There is hereby established a military judge system for the ~~state~~ military forces. The military judge system shall be in the Military Department under the command of the adjutant general. It shall consist of at least two military judges, a number of legal clerks equal to the number of judges and such additional military staff as is necessary.

Sec. 3. Minnesota Statutes 2020, section 192A.15, subdivision 2, is amended to read:

Subd. 2. **Qualifications of military judge.** A military judge shall be a commissioned officer of the state military forces who has been a member of the bar of ~~this~~ any state for at least six years, who has served as a member of the Judge Advocate Generals Corps for not less than three years, ~~and~~ who is certified to be qualified for such duty by the ~~state~~ Judge Advocate General of the armed force of which the officer is a member, and who is accepted by the state judge advocate to conduct any and all administrative or Minnesota Code of Military Justice activities under this code.

Sec. 4. Minnesota Statutes 2020, section 192A.155, subdivision 2, is amended to read:

Subd. 2. **Qualifications of counsel.** Trial counsel or defense counsel detailed for a general, special, or summary court-martial:

(1) must be a person who is a member of the bar of the highest court of ~~the~~ any state, or a member of the bar of a federal court; and

(2) must be certified as competent to perform such duties by the ~~state~~ Judge Advocate General of the armed force of which the individual is a member.

ARTICLE 5
JURISDICTION CHANGES

Section 1. Minnesota Statutes 2020, section 192A.02, subdivision 2, is amended to read:

Subd. 2. **Military service ~~in Minnesota~~.** This code ~~also~~ applies ~~to all persons in the military while they are serving within this state and while they are under the command of a commissioned officer of the state military forces.~~ to a member of the military when the member is in a status provided for by United States Code, title 32, a regulation adopted pursuant to United States Code, title 32, or in state active service. This military service includes:

(1) travel to and from the inactive-duty training site of the member, pursuant to orders or regulations;

(2) intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations; and

(3) intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.

Sec. 2. Minnesota Statutes 2020, section 192A.384, is amended to read:

192A.384 OFFENSES SUBJECT TO COURT-MARTIAL.

The jurisdiction of courts-martial ~~shall be~~ under this code is limited to violations of the punitive articles ~~in this code~~ prescribed by the manual for courts-martial of the United States, assimilated under any Minnesota state law as referenced under section 192A.605, or by the Minnesota Code of Military Justice. Any person subject to this code who is charged with the commission of an offense which is not an offense under this code or the manual for courts-martial of the United States may be surrendered to civil authorities for process in accordance with civil law.

ARTICLE 6
TRIAL PROCEDURE

Section 1. Minnesota Statutes 2020, section 192A.20, is amended to read:

192A.20 GOVERNOR MAY PRESCRIBE RULES.

The procedure, including modes of proof, in cases before military courts and other military tribunals organized under this code may be prescribed by the governor or the adjutant general by rules, which shall, so far as the governor or the adjutant general considers practicable, apply the principles of law and the rules of evidence generally recognized in the ~~trial of criminal cases in the courts of the state~~ manual for courts-martial of the United States, but which may not be contrary to or inconsistent with this code.

Sec. 2. Minnesota Statutes 2020, section 192A.235, subdivision 3, is amended to read:

Subd. 3. **Three-year limitation.** Except as otherwise provided in subdivision 1, and section 628.26, a person charged with any offense is not liable to be tried by court-martial or punished under section 192A.0851 if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction over the command or before the imposition of punishment under section 192A.0851. The limitation for violations of any offense prescribed under this section shall be the lesser of the limitation prescribed by the manual for courts-martial of the United States, Minnesota state law, or the Minnesota Code of Military Justice, but in no instance shall any limitation exceed that authorized by this code.

ARTICLE 7
SENTENCES

Section 1. Minnesota Statutes 2020, section 192A.343, subdivision 3, is amended to read:

Subd. 3. **Action on findings.** (a) The authority under this section to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. 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.

(b) Action on the sentence of a court-martial shall be taken by the convening authority. The action may be taken only after the consideration of any matters submitted by the accused under subdivision 2 or after the time for submitting the matter expires, whichever is earlier. The convening authority, in that person's sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.

(c) Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required. However, such person, in the person's sole discretion, may:

(1) dismiss any charge or specification by setting aside a finding of guilty; or

(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.

(d) The convening authority or other person acting under this section shall issue a final order at the conclusion of the court-martial proceeding, including any proceeding in revision, rehearing, and reconsideration under subdivision 5. The final order shall be promptly served on the accused.

Sec. 2. Minnesota Statutes 2020, section 192A.353, subdivision 2, is amended to read:

Subd. 2. **Appeal forwarded.** An appeal under this section shall ~~be forwarded to the court~~ proceed as prescribed in section 192A.371. In ruling on an appeal under this section, that court may act only with respect to matters of law.

Sec. 3. Minnesota Statutes 2020, section 192A.371, is amended to read:

192A.371 REVIEW BY STATE APPELLATE AUTHORITY.

Subdivision 1. **Certiorari.** ~~Decisions of a special or general courts-martial may be appealed to the Minnesota Court of Appeals according to the Minnesota Rules of Criminal~~

~~and Appellate Procedure.~~ (a) A review of any final order of a special or general court-martial proceeding may be had upon certiorari by the supreme court upon petition of any party to the proceeding. The review may be had on the ground that: (1) the court-martial was without jurisdiction; or (2) the findings of the court-martial and the final order of the convening authority: (i) were not justified by the evidence; (ii) were not in conformity with this code, military law or other law applicable to the proceedings, or the Classified Information Procedures Act; or (iii) were affected by any other error of law.

(b) A writ of certiorari for review under this section is a matter of right.

Subd. 2. **Service of writ.** (a) Within 60 days after notice of the final order of a court-martial proceeding, the petitioner for review shall obtain from the supreme court a writ of certiorari, shall serve the same upon all other parties appearing in the court-martial proceeding, and shall file the original writ of certiorari and proof of service with the court administrator of the court-martial. No fee or bond is required for either obtaining a writ of certiorari or the associated filings required under this paragraph.

(b) Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court in accordance with the rules of civil appellate procedure applicable to decisions reviewable by certiorari directly in the supreme court.

Sec. 4. Minnesota Statutes 2020, section 606.06, is amended to read:

606.06 CERTIORARI; ~~ADMINISTRATIVE DECISIONS.~~

A writ of certiorari for review of an administrative decision pursuant to chapter 14 or of an order publishing the proceedings, findings, or sentence of a court-martial pursuant to this code is a matter of right.

ARTICLE 8
PUNITIVE ARTICLES UPDATES

Section 1. Minnesota Statutes 2020, section 192A.021, is amended to read:

192A.021 PURELY MILITARY OFFENSES.

(a) Purely military offenses include the offenses contained in the following sections: 192A.39 (Principles), 192A.395 (Accessory after the fact), 192A.405 (Attempts), 192A.41 (Conspiracy), 192A.415 (Solicitation), 192A.42 (Fraudulent enlistment, appointment, or separation), 192A.425 (Unlawful enlistment, appointment, or separation), 192A.43 (Desertion), 192A.435 (Absent without leave), 192A.44 (Missing movement), 192A.445 (Contempt towards officials), 192A.45 (Disrespect towards superior commissioned officer),

192A.455 (Assaulting or willfully disobeying superior commissioned officer), 192A.46 (Insubordinate conduct toward warrant officer or noncommissioned officer), 192A.465 (Failure to obey order or rule), 192A.47 (Cruelty and maltreatment), 192A.475 (Mutiny or sedition), 192A.48 (Resistance, breach of arrest, and escape), 192A.495 (Noncompliance with procedural rules), 192A.50 (Misbehavior before the enemy), 192A.51 (Improper use of countersign), 192A.515 (Forcing a safeguard), 192A.525 (Aiding the enemy), 192A.54 (Military property; loss, damage, destruction, or wrongful disposition), 192A.55 (Improper hazarding of vessel), 192A.56 (Drunk on duty; sleeping on post; leaving post before relief), 192A.566 (Illegal presence of controlled substance while in duty status), 192A.57 (Malingering), 192A.60 (Conduct unbecoming an officer), ~~and~~ 192A.605 (General article), 192A.70 (Prohibited activities with military recruit or trainee by person in a position of special trust), 192A.701 (Nonconsensual distribution of intimate images), 192A.703 (Unauthorized use of government computer), and 192A.704 (Retaliation).

(b) Upon request of the governor or the adjutant general, the superintendent of the Bureau of Criminal Apprehension shall investigate military offenses or any other act or omission under this code within the jurisdiction of the military courts and tribunals.

Sec. 2. Minnesota Statutes 2020, section 192A.111, is amended to read:

192A.111 MAXIMUM LIMITS.

Subdivision 1. **Punishment limits.** The punishment ~~that a court-martial may direct for an offense may not exceed limits prescribed by this code.~~ for a violation of this code is limited to the lesser of the sentence prescribed by the manual for courts-martial of the United States in effect at the time of the offense or the state manual for courts-martial, but in no instance shall any punishment exceed that authorized by this code. A court-martial sentence must not (1) exceed more than ten years for a military offense, or (2) adjudge a sentence of death.

Subd. 2. **Level of offense.** (a) ~~Subject to paragraphs (b) and (c),~~ A conviction by general court-martial of any military offense for which an accused may receive a sentence of confinement for more than one year is a felony offense. All other military offenses are misdemeanors~~, and a sentence of confinement must not exceed 90 days~~.

(b) In cases where the civilian authorities decline to prosecute and court-martial jurisdiction is taken pursuant to sections 192A.02, subdivision 3, and 192A.605, the level of offense and punishment that a court-martial is authorized is defined by the level of offense and punishments authorized under ~~the statute~~ any Minnesota state law or the manual for courts-martial of the United States for the assimilated crime.

(c) For crimes under sections 192A.54, 192A.545, 192A.59, and 192A.595 with monetary loss of less than $1,000 ~~or more~~, confinement ~~must not exceed ten years. A sentence of confinement for more than one year is a felony offense~~ shall be limited to that prescribed by a special court-martial.

(d) Any conviction by a summary courts-martial is not a criminal conviction.

~~(e) The limits of punishment for violations of the purely military offenses prescribed under this section shall be the lesser of the sentences prescribed by the manual for courts-martial of the United States, and the state manual for courts-martial, but in no instance shall any punishment exceed that authorized by this code.~~

Sec. 3. Minnesota Statutes 2020, section 192A.56, is amended to read:

192A.56 UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE WHILE ON DUTY; SLEEPING ON POST; LEAVING POST BEFORE RELIEF.

Any person subject to this code who is found to be under the influence of alcohol or a controlled substance as defined in section 192A.566 without a valid medical prescription while on duty or sleeping upon an assigned post, or who leaves that post before being regularly relieved, shall be punished as a court-martial may direct.

Sec. 4. Minnesota Statutes 2020, section 192A.612, is amended to read:

192A.612 SEARCH WARRANTS.

~~During any period of active service under section 190.05, subdivision 5a or 5b,~~ A military judge is authorized to issue search warrants, directed to a member of the military police of the state military forces or any peace officer defined under section 626.05, to search any person, place, ~~or vehicle within the confines of the property or premises being used for such active service or any person or vehicle pursued therefrom~~ item or property when there is probable cause that a member of the state military forces has committed an offense subject to either concurrent or exclusive military jurisdiction during a period of active service as defined in section 190.05, subdivisions 5a and 5b, and seize items in accordance with law. No search warrant shall be issued except upon probable cause, supported by affidavit or sworn testimony naming and describing the person and particularly describing the property or thing to be seized and particularly describing the place to be searched.

Sec. 5. Minnesota Statutes 2020, section 192A.62, is amended to read:

192A.62 SECTIONS TO BE EXPLAINED.

Sections 192A.02, 192A.025, 192A.045, 192A.065, 192A.07, 192A.08, 192A.0851, 192A.155, 192A.205, ~~192A.385~~ 192A.39 to 192A.595, and 192A.62 to 192A.63 shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the state military forces or within 30 days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this code and of the rules prescribed by the governor thereunder shall be made available to any member of the state military forces, upon the member's request, for personal examination. Failure to provide briefings to soldiers or otherwise explain this code to soldiers shall not be a defense to a court-martial proceeding, except as mitigation in sentencing.

Sec. 6. **[192A.70] PROHIBITED ACTIVITIES WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST.**

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Applicant for military service" means a person who, under regulations prescribed by the secretary concerned, the Minnesota National Guard authority, or designee concerned, is an applicant for original enlistment or appointment in the armed forces.

(2) "Military recruiter" means a person who, under regulations prescribed by the secretary concerned, has the primary duty to recruit persons for military service.

(3) "Prohibited sexual activity" means, as specified in regulations prescribed by the secretary concerned, the Minnesota National Guard authority, or designee concerned, inappropriate physical intimacy under circumstances described in such regulations.

(4) "Specially protected junior member of the armed forces" means:

(i) a member of the armed forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

(ii) a member of the armed forces who is a cadet, an officer candidate, or a student in any other officer qualification program; and

(iii) a member of the armed forces in any program that, by regulation prescribed by the secretary concerned or a Minnesota National Guard authority, or designee concerned, is identified as a training program for initial career qualification.

(5) "Training leadership position" means, with respect to a specially protected junior member of the armed forces, any of the following:

(i) any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the armed forces, or any program that, by regulation prescribed by the secretary concerned, is identified as a training program for initial career qualification; and

(ii) faculty and staff of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, and the Minnesota National Guard Regional Training Institute.

Subd. 2. **Abuse of training leadership position.** Any person subject to this code:

(1) who is an officer or a noncommissioned officer;

(2) who is in a training leadership position with respect to a specially protected junior member of the armed forces; and

(3) who engages in prohibited sexual activity with the specially protected junior member of the armed forces;

shall be punished as a court-martial may direct.

Subd. 3. **Abuse of position as military recruiter.** Any person subject to this code:

(1) who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

(2) who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program;

shall be punished as a court-martial may direct.

Subd. 4. **Consent.** Consent is not a defense for any conduct at issue in a prosecution under this section.

Sec. 7. **[192A.701] NONCONSENSUAL DISTRIBUTION OF INTIMATE IMAGES.**

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons.

(2) "Distribute" means to deliver to the actual or constructive possession of another person, including transmission by mail or electronic means.

(3) "Intimate visual image" means a visual image that depicts a private area of a person.

(4) "Private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

(5) "Reasonable expectation of privacy" means circumstances in which a reasonable person would believe that a private area of the person, or sexually explicit conduct involving the person, would not be visible to the public.

(6) "Sexually explicit conduct" means actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact, whether between persons of the same or opposite sex, bestiality, masturbation, or sadistic or masochistic abuse.

(7) "Visual image" means:

(i) any developed or undeveloped photograph, picture, film, or video;

(ii) any digital or computer image, picture, film, or video made by any means or transmitted by any means, including streaming media, even if not stored in a permanent format; or

(iii) any digital or electronic data capable of conversion into a visual image.

Subd. 2. **Crime defined.** Any person subject to this code:

(1) who knowingly and wrongfully broadcasts or distributes an intimate visual image of another person or a visual image of sexually explicit conduct involving a person who:

(i) is at least 18 years of age at the time the intimate visual image or visual image of sexually explicit conduct was created;

(ii) is identifiable from the intimate visual image or visual image of sexually explicit conduct itself, or from information displayed in connection with the intimate visual image or visual image of sexually explicit conduct; and

(iii) does not explicitly consent to the broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(2) who knows that the intimate visual image or visual image of sexually explicit conduct was made under circumstances in which the person depicted in the intimate visual image

or visual image of sexually explicit conduct retained a reasonable expectation of privacy regarding any broadcast or distribution of the intimate visual image or visual image of sexually explicit conduct;

(3) who possesses the intent to broadcast or distribute an intimate visual image or visual image of sexually explicit conduct:

(i) to cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the intimate visual image or visual image of sexually explicit conduct; or

(ii) to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships; and

(4) whose conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment;

is guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct and shall be punished as a court-martial may direct.

Sec. 8. **[192A.702] FRAUDULENT USE OF CREDIT CARDS, DEBIT CARDS, AND OTHER ACCESS DEVICES.**

Subdivision 1. **Crime defined.** Any person subject to this code who knowingly, with intent to defraud, uses:

(1) a stolen credit card, debit card, or other access device;

(2) a revoked, canceled, or otherwise invalid credit card, debit card, or other access device; or

(3) a credit card, debit card, or other access device without the authorization of a person whose authorization was required for use, including a government purchase card or government travel card without conforming to the published federal or Minnesota National Guard procedures at the time of use;

to obtain money, property, services, or anything else of value shall be punished as a court-martial may direct.

Subd. 2. **Access device defined.** As used in this section, "access device" has the meaning given in United States Code, title 18, section 1029.

Sec. 9. **[192A.703] UNAUTHORIZED USE OF GOVERNMENT COMPUTER.**

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Computer" has the meaning given in United States Code, title 18, section 1030.

(2) "Damage" has the meaning given in United States Code, title 18, section 1030.

(3) "Government computer" means a computer owned or operated by or on behalf of the United States government or the state of Minnesota.

Subd. 2. **Crime defined.** Any person subject to this code who:

(1) knowingly accesses a government computer with an unauthorized purpose and by doing so obtains classified information, with reason to believe the information could be used to the injury of the United States or the state of Minnesota or to the advantage of any foreign nation, and intentionally communicates, delivers, or transmits or causes to be communicated, delivered, or transmitted the information to any person not entitled to receive it;

(2) intentionally accesses a government computer with an unauthorized purpose and thereby obtains classified or other protected information from any government computer; or

(3) knowingly causes the transmission of a program, information, code, or command, and as a result intentionally causes damage without authorization to a government computer;

shall be punished as a court-martial may direct.

Sec. 10. **[192A.704] RETALIATION.**

Subdivision 1. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(1) "Covered individual or organization" means any recipient of a communication specified in United States Code, title 10, section 1034(b)(1)(B), clauses (i) to (v).

(2) "Inspector general" has the meaning given in United States Code, title 10, section 1034(j).

(3) "Protected communication" means:

(i) a lawful communication to a member of Congress, a state legislator, or an inspector general; and

(ii) a communication to a covered individual or organization, to include the Office of the Governor, in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of any of the following:

(A) a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Subd. 2. **Crimes defined.** Any person subject to this code who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication:

(1) wrongfully takes or threatens to take an adverse personnel action against any person; or

(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;

shall be punished as a court-martial may direct.

Sec. 11. **REVISOR INSTRUCTION.**

The revisor of statutes shall recodify the following sections in article 6: sections 6 to 10, recodify Minnesota Statutes, section 192A.70 as 192A.6011; section 192A.701 as 192A.6012; section 192A.702 as section 192A.6013; section 192A.703 as section 192A.6014; and section 192A.704 as section 192A.6015. The revisor shall correct any cross-references made necessary by this recodification.

Sec. 12. **REPEALER.**

Minnesota Statutes 2020, section 192A.385, is repealed.

192A.385 PERSONS TO BE TRIED OR PUNISHED.

Subdivision 1. **Duty status required.** No person may be tried or punished for any offense provided for in sections 192A.39 to 192A.605 unless it was committed while that person was in a duty status as a member of the state military forces not in federal active service.

Subd. 2. **Determination.** Duty status may extend to any soldier while acting in the line of duty or during any consecutive duty periods. Consecutive duty periods run from the time the soldier is required to be at the assigned duty station until the soldier is dismissed from duty. Duty status may be determined by weighing factors including, but not limited to, whether the soldier:

(1) is in uniform;

(2) is attending a unit endorsed event;

(3) is drilling in excess of 50 miles from the soldier's normal duty station;

(4) is involved in an activity which is service-connected;

(5) has been released versus dismissed from duty; and

(6) is staying at lodging provided by the military or at military expense.