

Support Senate Bill 18-135 – Update Colorado Code of Military Justice

What is the Colorado Code of Military Justice (CCMJ)? - *It is the legal framework that applies to the Colorado State Military Forces (i.e. Colorado National Guard) in the same way the Uniform Code of Military Justice (UCMJ) applies to the federal military. It is the tool used by military commanders to ensure good order and discipline of Colorado Guardsmen when under the command and control of the state.*

Why does it need updated? – *This code has not been updated since 1983. The maximum fine for a single offense is currently \$50. This update would make changes (see list below) to include making fines related to a specific pay period. This is proportional to rank and will not need to be updated in the future due to inflation.*

What do other states do? – *Most states are similar to Colorado and have a specific code that is a hybrid of the basic tenants of the UCMJ and specifics that work for the state in question. Only three states have adopted the UCMJ as their state's code of military justice.*

How frequently is the CCMJ utilized? – *In 2016/2017 there was an average of 3.5 offenses adjudicated under the CCMJ per month (2.5 Army/1.0 Air).*

How does the CCMJ compare to the UCMJ on key provisions?

PUNITIVE ARTICLE	CCMJ*	UCMJ
Assaulting or willfully disobeying a superior commissioned officer (28-3.1-514)	Up to 10 years confinement	DD, BCD, 5 years, 10 years or life confinement
Mutiny and Sedition (28-3.1-523)	Up to 10 years confinement	DD, BCD, life confinement, death
Improper use of countersign (28-3.1-525)	Up to 10 years confinement	DD, BCD, life confinement, death
Aiding the enemy or any hostile force (28-3.1-528)	Up to 10 years confinement	DD, BCD, life confinement, death

Key: DD – Dishonorable Discharge
BCD – Bad Conduct Discharge

* Unless otherwise stated, maximum confinement under the CCMJ is 2 yrs by General Courts-Martial; 90 days by Special Courts-Martial, 30 days by Summary Courts-Martial.

What are the key changes from the current CCMJ?

1. Modernized/Updated Definitions

- a. Cadet and Candidate
- b. Classified Information
- c. Commanding officer (to now include Warrant Officers)
- d. Dismissal (punitive separation)
- e. Junior enlisted
- f. Noncommissioned officer
- g. Safeguard
- h. State Active Duty (vice "Active State Duty")
- i. Unit Training Assembly
- j. Warrant Officer

2. Updated Non-Judicial Punishment Article (28-3.1-114) of the Colorado Code of Military Justice

- a. Added punishments for officers including:
 - (1) admonition
 - (2) reprimand
 - (3) increased fines

b. For enlisted personnel:

(1) increases fines

(2) allows for the reduction of up to two pay grades if imposed by an officer in the grade of Major (O-4) or higher

3. Updated Court Martial Articles

a. General Courts Martial

(1) increases fines and forfeitures of military pay to up to 8 unit training assemblies (UTAs)

(2) updates leadership positions that may convene general courts martial

b. Special Courts-Martial

(1) increases fines and forfeitures to up to 6 UTAs

(2) limits jurisdiction to those cases where a person has been offered, and rejects, a Summary Courts-Martial

(3) updates leadership positions that may convene special courts martial

c. Summary Courts Martial

(1) restricts summary courts-martial to enlisted only

(2) increases fines and forfeitures for up to 4 UTAs

d. Military Judges

(1) Allows for State Judge Advocate to appoint a military judge irrespective of military branch if otherwise qualified

4. Updated Sentencing Provisions

a. distinguishes felony from misdemeanor convictions

b. allows for up to 10 years confinement for certain offenses, e.g., assaulting superior officer; mutiny and sedition; misbehavior before the enemy; improper use of countersign; aiding the enemy (mirrors UCMJ)

c. allows for an appeal by the State

5. Updated Punitive Articles

a. Changes "Failure to embark" to "Missing movement"

b. Changes "Dereliction of duty" to "Failure to obey order or regulation"

c. Changes "Maltreatment of inferiors" to "Cruelty and Maltreatment of inferiors"

d. Changes "Mutiny – sedition" to "Mutiny and Sedition"

e. Changes "Driving while intoxicated" to "Driving while impaired" and adds to body of article, "impaired by alcohol, marijuana, drugs or intoxicants of any kind, or any combination thereof"

f. Changes "Impaired on duty" and adds to body of article, "impaired by alcohol, marijuana, drugs or intoxicants of any kind, or any combination thereof"

g. Adds new article, "Wrongful use, possession, etc., of controlled substances"

6. Updated Complaint of Wrongs Article

a. Eliminates completely the ability for a person who believes himself or herself wronged to file a complaint of wrongs with governor. Instead, aggrieved persons can now only appeal action by commander to next higher commander, then to first general officer, then to TAG, but no further.