

Ohio Veterans Law

Ohio Revised Code

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Ohio Revised Code General Provisions

Chapter 5 State Insignia; seals; holidays

5.21 Labor day - Columbus day - Veterans' day.

The first Monday in September of each year shall be known as "Labor day" and for all purposes shall be considered as the first day of the week.

The second Monday in October of each year shall be known as "Columbus day" and is a legal holiday.

The eleventh day of November of each year shall be known as "Veterans' day" and is a legal holiday. If said day falls on Sunday, the following Monday is the legal holiday.

Effective Date: 07-01-1974

5.228 Korean War Veterans' day.

The twenty-seventh of July is designated as "Korean War Veterans' Day," in honor of those who fought, died, or are still unaccounted for in the Korean war.

Effective Date: 03-11-1996

5.229 Gold Star Mothers Day.

The last Sunday in September shall be designated "Gold Star Mothers Day," to honor mothers whose sons or daughters have been killed while serving on active duty in the armed forces of the United States.

Effective Date: 08-08-1996

5.2216 Ohio National Guard day.

The twenty-fifth of July is designated as "Ohio National Guard day," in honor of those who have served and contributed to the distinguished service and contributions of the Ohio National Guard to this state and the people of Ohio.

Effective Date: 07-09-1998

5.23 School holidays.

(A) The twelfth day of February, known as Lincoln's birthday, the twenty-second day of February, known as Washington's birthday, the thirtieth day of May, known as Memorial day, and the eleventh day of November, known as Veterans' day, shall be commemorated in the schools.

(B) The tenth day of November is designated as "veterans educate today's students day" or "V.E.T.S. day." Each elementary and secondary school in this state is encouraged to commemorate and observe this day by inviting veterans, on or about this day, to visit the school and discuss their military experiences with the students of the school.

Effective Date: 06-15-2000

Chapter 9 Miscellaneous

9.50 Display of the POW/MIA flag during normal business hours at public buildings.

(A) As used in this section:

(1) "POW/MIA flag" means the flag that depicts the profile of a prisoner of war against the background of a prisoner of war camp watchtower.

(2) "Public building" means the principal municipal building of each municipal corporation, the principal county building in the county seat of each county, and the state house in Columbus.

(B) The general assembly hereby encourages the display of the POW/MIA flag during normal business hours at each public building.

(C) In enacting this section, the general assembly hereby declares and finds all of the following:

(1) Over two thousand four hundred Americans, including one hundred seventeen from this state, who served in the United States armed forces during the war in Indochina are still listed as prisoners of war or missing in action.

(2) There is significant evidence that many of these missing Americans are still alive and being held against their will in Indochina.

(3) This nation is deeply indebted to its servicemen and servicewomen of all wars and conflicts for their courage and sacrifice and should demonstrate its special commitment to the missing men and women of all wars and conflicts and their families by obtaining the release of those still held prisoner of war and the fullest possible accounting from the responsible governments regarding those Americans listed as missing in action.

(4) The POW/MIA flag is a powerful symbol of the plight of these prisoners of war and missing Americans and reminds the public of the commitment this nation must have in determining the fate of its servicemen and servicewomen. Thus, it is appropriate that the POW/MIA flag should be displayed at certain public buildings throughout this state to increase public awareness of the issue of prisoners of war and those missing in action and to gain public support for the efforts of the United States government to resolve this matter.

Effective Date: 09-17-1991

<http://codes.ohio.gov/orc/gp9.50>

**Title One
State Government**

Chapter 124 Department of administrative services – personnel

124.23 Examinations.

(A) All applicants for positions and places in the classified service shall be subject to examination, except for applicants for positions as professional or certified service and paraprofessional employees of county boards of mental retardation and developmental

disabilities, who shall be hired in the manner provided in section 124.241 of the Revised Code.

(B) Any examination administered under this section shall be public and be open to all citizens of the United States and those persons who have legally declared their intentions of becoming United States citizens, within certain limitations to be determined by the director of administrative services as to citizenship, age, experience, education, health, habit, and moral character. Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of this state and any member of the national guard or a reserve component of the armed forces of the United States who has completed more than one hundred eighty days of active duty service pursuant to an executive order of the president of the United States or an act of the congress of the United States may file with the director a certificate of service or honorable discharge, and, upon this filing, the person shall receive additional credit of twenty per cent of the person's total grade given in the regular examination in which the person receives a passing grade.

As used in this division, "service in the uniformed services" and "uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303.

(C) An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. If minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.

(D) The director of administrative services shall have control of all examinations, except as otherwise provided in sections 124.01 to 124.64 of the Revised Code. No questions in any examination shall relate to political or religious opinions or affiliations. No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting that extra credit.

(E) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, the director of administrative services shall give reasonable notice of the time, place, and general scope of every competitive examination for appointment to a position in the civil service. The director shall send written, printed, or electronic notices of every examination to be conducted in the state classified service to each agency of the type the director of job and family services specifies and, in the case of a county in which no such agency is located, to the clerk of the court of common pleas of that county and to the clerk of each city located within that county. Those notices shall be posted in conspicuous public places in the designated agencies or the courthouse, and city hall of the cities, of the counties in which no designated agency is located for at least two weeks preceding any examination involved, and in a conspicuous place in the office of the director of administrative services for at least two weeks preceding any examination involved. In case of examinations limited by the director to a district, county, city, or department, the director shall provide by rule for adequate publicity of an examination in the district, county, city, or department within which competition is permitted.

Effective Date: 03-31-2003; 07-01-2007; 2007 HB372 03-24-2008

124.26 Eligibility lists - veteran's preference - provisional employees.

From the returns of the examinations, the director of administrative services shall prepare an eligible list of the persons whose general average standing upon examinations for the grade or class is not less than the minimum fixed by the rules of the director, and who are otherwise eligible. Those persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of the time of examination. If two or more applicants receive the same mark in an open competitive examination, priority in the time of filing the application with the director shall determine the order in which their names shall be placed on the eligible list, except that applicants eligible for veteran's preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over nonveterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of filing the application. If two or more applicants receive the same mark on a promotional examination, seniority shall determine the order in which their names shall be placed on the eligible list. The term of eligibility of each list shall be fixed by the director at not less than one or more than two years.

When an eligible list is reduced to ten names or less, a new list may be prepared. The director may consolidate two or more eligible lists of the same kind by the rearranging of eligibles named in the lists, according to their grades.

Effective Date: 10-25-1995; 07-01-2007

124.27 Appointments from eligibility lists - probation.

(A) The head of a department, office, or institution, in which a position in the classified service is to be filled, shall notify the director of administrative services of the fact, and the director shall, except as otherwise provided in this section and sections 124.30 and 124.31 of the Revised Code, certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs, except that the director may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory. When a position in the classified service in the department of mental health or the department of mental retardation and developmental disabilities is to be filled, the director of administrative services shall make such certification to the appointing authority within seven working days of the date the eligible list is requested.

(B) The appointing authority shall notify the director of a position in the classified service to be filled, and the appointing authority shall fill the vacant position by appointment of one of the ten persons certified by the director. If more than one position is to be filled, the director may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligible list becomes exhausted, and until a new list can be created, or when no eligible list for a position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is classified. A person who is certified from an eligible list more than three times to the same appointing authority for the same or similar positions

may be omitted from future certification to that appointing authority, provided that certification for a temporary appointment shall not be counted as one of those certifications. Every person who qualifies for veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position shall be entitled to preference in original appointments to any such competitive position in the civil service of the state and its civil divisions over all other persons eligible for those appointments and standing on the relevant eligible list with a rating equal to that of the person qualifying for veteran's preference. Appointments to all positions in the classified service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names are certified to the appointing authority, and no employment, except as provided in those sections, shall be otherwise given in the classified service of this state or any political subdivision of the state.

(C) All original and promotional appointments, including appointments made pursuant to section 124.30 of the Revised Code, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director, except as provided in section 124.231 of the Revised Code, and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing authority decides to remove a probationary employee in the service of the state, the appointing authority shall communicate to the director the reason for that decision. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Effective Date: 03-31-2003; 07-01-2007

124.29 Reinstatement after uniformed service.

Any person who, at the time of holding an office or position in the public service, enters the uniformed services, as defined in section 5903.01 of the Revised Code, is entitled to reinstatement in accordance with the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4301 to 4333.

The director of administrative services shall adopt rules in accordance with Chapter 119. of the Revised Code for the implementation of this section.

Effective Date: 09-18-1997

124.37 Police and fire departments reduction in work force - layoffs - job abolishment.

When it becomes necessary in a police or fire department, through lack of work or funds, or for causes other than those outlined in section 124.34 of the Revised Code, to reduce the force in such department, the youngest employee in point of service shall be first laid off. Should a position in the police or fire department once abolished or made unnecessary be found necessary to be re-created or re-established within three years from the date of abolishment, or should a vacancy occur through death, resignation, or any other cause within three years from the date of the abolishment of the position or layoff, the oldest employee in point of service of those laid off shall be entitled to the

position, providing he was at the date of his separation a regular and permanent employee. If any employee laid off as prescribed in this section, enters into the active service of the army, navy, marine corps, or other armed service of the United States, the period such employee serves therein shall not be considered in the determination of the three years stipulated as a maximum time within which reinstatements shall be made; such three-year period shall be computed exclusive of the time the employee spent in the armed services. When a position above the rank of patrolman in the police department and above the rank of regular fireman in the fire department is abolished, and the incumbent has been permanently appointed, he shall be demoted to the next lower rank and the youngest officer in point of service in the next lower rank shall be demoted, and so on down until the youngest person in point of service has been reached, who shall be laid off.

Effective Date: 12-04-1973

124.45 Fire department promotions.

Vacancies in positions above the rank of regular fire fighter in a fire department shall be filled by competitive promotional examinations, and promotions shall be by successive ranks as provided in this section and sections 124.46 to 124.49 of the Revised Code. Positions in which those vacancies occur shall be called promoted ranks.

When a vacancy occurs in the promoted rank immediately above the rank of regular fire fighter, no person shall be eligible to take the examination unless the person has served forty-eight months, not including the person's probationary period, in the rank of regular fire fighter, provided that, in those cases when there are less than two persons in the rank of regular fire fighter who have served forty-eight months , not including the person's probationary period, in that rank and who are willing to take the examination, this service requirement does not apply.

When a vacancy occurs in a promoted rank, other than the promoted rank immediately above the rank of regular fire fighter, no person shall be eligible to take the examination unless the person has served twelve months in the rank from which the promotion is to be made, provided that, in those cases when there are less than two persons in that next lower rank who have served twelve months in that rank and who are willing to take the examination, the twelve-month service requirement shall not apply. If the nonapplication of the twelve-month service requirement to persons in the next lower rank does not produce two persons eligible and willing to compete, the same method shall be followed by going to successively lower ranks until two or more persons are eligible and willing to compete in an examination for the vacancy. If this process of searching successively lower ranks reaches the rank of regular fire fighter, the forty-eight-month service requirement applies, provided that, in those cases when that application still fails to produce two persons who are eligible and willing to compete, the forty-eight-month service requirement does not apply. If two persons are unwilling to compete for the examination, the one person who is willing to compete shall be appointed to fill the vacancy after passing a qualifying examination.

Promotional examinations for positions within a fire department shall relate to those matters that test the ability of the person examined to discharge the particular duties of the position sought, shall include a written testing component, and, in examinations for positions requiring the operation of machines or equipment, may include practical demonstration tests of the operation of those machines or equipment as a part of the examination.

Those persons who compete in a promotional examination in accordance with the rules of the civil service commission shall have added to their grade credit for seniority. Credit for

seniority shall be given as follows: one point shall be added for each of the first four years of service, and six-tenths of a point shall be added for each year for the next ten years of service. In computing the credit for seniority, half of the credit specified in this paragraph shall be given for a half year of service. Credit for seniority shall be based only on service in the municipal or civil service township fire department and the service provided for in the next succeeding paragraph.

When service in a municipal or civil service township fire department is interrupted by service in the armed forces of the United States, seniority credit shall be granted in promotional examinations for the time so served. No additional credit for military service shall be allowed in promotional examinations.

Credit for efficiency may be given as an added credit, shall be ten per cent of the member's efficiency rating for the last year, and shall be based on the record of efficiency maintained in the fire department in the manner established by the civil service commission, provided the efficiency shall be graded by three ranking officers of the fire department familiar with the work of the member. In those cases when three such officers do not exist, the ranking officers or officer familiar with the work of the member shall grade the efficiency.

No credit for seniority, efficiency, or any other reason shall be added to an applicant's grade unless the applicant achieves at least the minimum passing grade on the examination without counting that extra credit.

After the grading of examination papers, any participant in the examination who considers the participant's examination papers to have been erroneously graded shall have the right to appeal to the commission, and the appeal shall be heard by the commission.

The public notice of a holding of a promotional examination for a position or positions in a fire department shall, unless waived by all persons eligible to participate, be published not less than thirty days prior to the examination and shall contain a description of the source material from which the examination questions are prepared. The source material shall be readily accessible to the examinee. Failure to comply with this requirement shall make void the pursuant examination. This paragraph does not prohibit the use of questions having answers based on experience in the fire service within the fire department in which the promotional examination is being given.

Effective Date: 05-23-1978; 07-01-2007

Chapter 141 Salaries of state officers

141.02 Pay of adjutant general, assistants, and quartermaster.

(A) The salaries of the adjutant general, the assistant adjutant general for army, the assistant adjutant general for air, and the assistant quartermaster general shall be paid according to divisions (B) and (H) of section 124.15 of the Revised Code.

(B) The adjutant general, the assistant adjutant general for army, the assistant adjutant general for air, and the assistant quartermaster general shall receive the basic allowances for quarters and for subsistence of their rank according to the pay at the time prescribed for the armed forces of the United States, except that the assistant adjutant general for air shall not receive flying pay.

Effective Date: 09-18-1997

Chapter 145 Public employees retirement system

145.30 Credit for military service.

(A) As used in this section and section 145.301 of the Revised Code:

(1) "Armed forces" of the United States includes the following:

(a) Army, navy, air force, marine corps, coast guard, auxiliary corps as established by congress, red cross nurse serving with the army, navy, air force, or hospital service of the United States, army nurse corps, navy nurse corps, full-time service with the American red cross in a combat zone, and such other service as may be designated by congress as included therein;

(b) Personnel of the Ohio national guard and the reserve components of any of the armed forces enumerated in division (A)(1) of this section who are called to active duty pursuant to an executive order issued by the president of the United States or an act of congress;

(c) Persons on whom United States merchant marine veteran status has been conferred for service aboard oceangoing merchant ships in service to the United States during World War II.

(2) "State retirement system" means any of the following: the Ohio police and fire pension fund, public employees retirement system, school employees retirement system, state highway patrol retirement system, or the state teachers retirement system.

(B) Upon reemployment in the public service and completion of one year of service credit as covered by a state retirement system or the Cincinnati retirement system, within two years after service in the armed forces that is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, and presentation of documentation of the service and subject to rules adopted by the retirement board, any member of the public employees retirement system who was a member with not less than one year of payroll deductions before entering active duty with the armed forces and maintained membership in the public employees retirement system as provided by section 145.41 of the Revised Code, and who was or is out of active service as a public employee by reason of having become a member of the armed forces of the United States on active duty or service shall have such service, not in excess of ten years, considered as the equivalent of prior service. Service in the armed forces as established by documentation of the service, not in excess of ten years, shall also be considered prior service for a person who was a public employee and who has acquired service credit for five years prior to, and within the one year preceding, the date of entering on active duty in the armed forces of the United States if such person was reemployed in the public service within one year after service in the armed forces that is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, and established total service credit as defined in section 145.01 of the Revised Code of twenty years exclusive of credit for service in the uniformed services, as defined in section 145.302 of the Revised Code. This division shall not serve to cancel any military service credit earned or granted prior to November 1, 1965.

(C) A member of the public employees retirement system is ineligible to receive service credit under this section for any year of military service credit used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program, except social security, or used to obtain service credit

pursuant to section 145.301 or 145.302] of the Revised Code. At the time such credit is requested, the member shall certify on a form supplied by the retirement board that the member does and will conform to this requirement. This division does not cancel any military service credit earned prior to March 15, 1979.

Effective Date: 11-02-1999

Chapter 147 Notaries Public and Commissioners

147.32 Representatives of veterans' organizations may be appointed as commissioners of the state.

Representatives of the United Spanish War Veterans, The Disabled American Veterans, The American Legion, Veterans of Foreign Wars of the United States, and other congressionally chartered veterans' organizations, who are recognized as such representatives by the administrator of the veterans' administration, and who are engaged in the preparation and prosecution of claims of veterans and their dependents before the rating agencies of the veterans' administration within the state, may be appointed as commissioners of the state. Such commissioners shall continue in office for a term of three years. Each of such commissioners shall, before performing any of his duties, take and subscribe to an oath of office before a judge of a court of record within this state. Such oath, with his signature thereto and an impression of his seal of office and his residence address, shall forthwith be transmitted by him to the governor, and filed by the governor in the office of the secretary of state.

Each of such commissioners shall procure and employ a seal of the dimensions and inscription set forth and prescribed for notaries public, in section 147.04 of the Revised Code, except that the words shall be: "Commissioner of the State of Ohio for Veterans' Affairs."

Such commissioners may, without fee and within the state, administer oaths, take acknowledgments, and attest the execution of any instruments of writing only in connection with or used before the veterans' administration.

Effective Date: 10-14-1963

Chapter 155 Lands and memorials

155.04 Approved headstones at graves of soldiers.

(A) No trustee, association, corporation, or person in control of any cemetery or a public graveyard in this state shall make a rule or bylaw prohibiting the erection of headstones furnished or approved by the United States government or by the state for the graves of soldiers, sailors, and marines, who have served in the army or navy of the United States or of the state. Any rule or bylaw passed by any cemetery association or corporation, trustees, or persons, having control of any cemetery prohibiting the erection of such headstones is void.

(B) No person shall seek or attempt to enforce any rule or bylaw referred to in division (A) of this section.

Effective Date: 10-01-1953

<http://codes.ohio.gov/orc/155.04>

155.27 Certain incorporated associations may purchase or condemn battlefield or memorial sites.

Any incorporated association, having for its purpose the preservation of public parks and memorial sites, may acquire and hold in perpetuity for memorial purposes for the free use and benefit of the public, any real estate in the state, which is the site or scene of any battle, or other engagement, in behalf of, or in defense of, the government of the United States or of the state, or which has been used or set apart for the burial of American soldiers. Such association may improve such real estate so held by it, and may prescribe reasonable regulations for the use thereof by the public. If the association and any owner of real estate, sought to be acquired by such association, are unable to agree upon the price to be paid therefor, such association may acquire the real estate by proceedings in a proper court, in the manner provided by sections 163.01 to 163.22, inclusive, of the Revised Code.

Effective Date: 01-01-1966

Title Three
Counties

Chapter 307 Board of county commissioners – powers

307.66 Memorial day appropriations.

The board of county commissioners, annually, shall appropriate, and advance upon application made no more than one hundred twenty days prior to memorial day, to each garrison or naval branch of the Army and Navy Union, U.S.A. and to each chartered post, garrison, or naval branch of any organization of veterans recognized and chartered by the congress, upon request of their officials, in the county, a sum of money not to exceed five hundred dollars to aid in defraying the expenses of memorial day.

Each such organization applying for an advance of funds shall submit with its application a statement of expenses incurred up to the time the application for an advance is submitted. Each such organization receiving money from this appropriation shall file a sworn statement accounting for the complete expenditures of the funds with the board within sixty days after the memorial day for which the funds were provided. Any unexpended funds shall be returned to the board of county commissioners within this period. Any organization failing to file a sworn statement within the prescribed time accounting for the complete expenditure of the funds shall not be eligible to receive an appropriation the following year. Two or more separate veterans' organizations, or two or more posts, garrisons, or naval branches of one or more veterans' organizations, or both, may pool their entitlements to funds and submit a joint or consolidated statement of expenses. Allowable items shall include expenses for arrangement of, support of, or participation in, local or countywide observances as may be desirable in the community; expenses for mapping, marking, and decorating graves of veterans; and other items incidental to these expenses.

The board of township trustees may, on or before the fifteenth day of May in each year, appropriate a sum to be determined by the board for each post within the township, from the general expense fund of the township, for the purpose of properly observing memorial day within the township, and if any post is located within the township, the appropriation shall be made to that post. Any municipal corporation located within a township may cooperate with the township, or with the county, in observing memorial day, and the legislative authority of the municipal corporation may make the necessary appropriation for the observance.

If any posts have become extinct or unable to attend to memorial day services, the appropriation by the board of county commissioners or the board of township trustees shall be made to a post or unit of the sons of union veterans of the civil war, woman's relief corps, or daughters of veterans, or to any civic or patriotic organization willing and able to undertake and perform the work of commemoration and observance of memorial day. If the appropriation by the board of county commissioners is made to a civic organization, it shall not exceed one hundred dollars.

Effective Date: 05-30-2002

Chapter 317 Recorder

317.24 Record of discharge.

(A) Upon request of any discharged member of the armed forces of the United States and presentation of the member's discharge, the county recorder shall record the discharge in a book to be furnished by the board of county commissioners for that purpose. There shall be no fee for the recording. The record of discharge, or a certified copy of the record, shall be received in evidence in all cases where the original discharge would be received.

(B) Upon application by a person whose discharge has been recorded pursuant to this section, the county recorder shall, without fee, expunge the person's record of discharge, expunge the person's separation program number or separation code from the person's record of discharge and from any of the person's other service-related documents that have been recorded, or expunge the person's social security number from the person's record of discharge and from any of the person's other service-related documents that have been recorded. The application shall be in the following form:

"APPLICATION FOR EXPUNGEMENT OF
DISCHARGE RECORD

I, (Name of Applicant), the undersigned, hereby request the County Recorder of the County of (Name of County), state of Ohio, to expunge my (Insert Record of Discharge, Separation Program Number or Separation Code from my Record of Discharge and other service-related documents, or Social Security Number from my Record of Discharge and other service-related documents).

Dated this day of,

.....

(Signature of Applicant)

Sworn to and subscribed before me by (Name of Applicant) on,

.....

Notary Public

My commission expires,"

(C) As used in this section:

(1) "Separation code" or "separation program number" means the coded number or numbers used to specify the reasons for a person's separation from active duty, as contained in one of the following:

(a) Regarding a separation code, as contained in line 23 or 26 of a veteran's discharge paper, United States department of defense form DD-214;

(b) Regarding a separation program number, as contained in line 9 (c) or line 11 (c) of a veteran's discharge paper, under prior versions of United States department of defense form DD-214.

(2) "Service-related document" means any United States department of defense form DD-215 or DD-220, or any National Guard Bureau form NGB-22 or NGB-22A.

(D) Upon the request of any person who served during World War I or World War II as a member of any armed force of the government of Poland or Czechoslovakia and participated while so serving in armed conflict with an enemy of the United States and who has been a citizen of the United States for at least ten years, and the presentation of the person's discharge, the county recorder shall record the person's discharge in a book to be furnished by the board of county commissioners for that purpose. No fee shall be charged for the recording. The record, or a certified copy of it, shall be received in evidence in all cases where the original would be received.

Effective Date: 09-27-2002

317.25 Records of soldiers' graves.

The county recorder shall be the custodian of all records which are provided for the county and furnished under the laws of this state, providing for the registration of the graves of all persons who served in any war in which the United States had a part and who were honorably discharged from the United States army, navy, or marine or nurse corps. The recorder shall provide the necessary and proper equipment to preserve and protect such records and they shall be available for public examination at all times.

On proper request from any duly constituted and authorized veterans' organization, providing such request is made at least thirty days prior to Memorial day of each year, the recorder shall furnish such organization a list of all veterans' grave locations within the county, giving the name, section, lot, and grave number or location in the cemetery, as designated by the request.

Effective Date: 07-20-1984

317.27 Certified copy of record.

On demand and tender of the proper fees, the county recorder shall furnish to any person an accurate, certified copy of any record in his office, and affix his official seal thereto. The recorder shall issue, without charge, upon the request of any discharged member of the armed forces, one certified copy or one certified photostatic copy of the recorded record of discharge, with the official seal of the county recorder affixed thereto.

Any certified copy of any record, document, or map and any transcription of records, required or permitted to be made by the recorder, may be made by any method provided for the making of records.

Effective Date: 10-01-1953

Chapter 345 Memorial buildings

345.01 Soldiers' memorial tax levy - resolution.

The taxing authority of any municipal corporation, township, or county, at any time not less than one hundred days prior to a general election in any year, by a vote of two-thirds of all members of the taxing authority, may, and upon presentation to the clerk or fiscal officer, as the case may be, of the taxing authority of a petition signed by not less than two per cent of the electors of the political subdivision, as shown at the preceding general election held in the subdivision, shall, declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy taxes in excess of the limitation for either or both of the following purposes:

(A) For purchasing a site, and for erecting, equipping, and furnishing, or for establishing a memorial to commemorate the services of all members and veterans of the armed forces of the United States;

(B) For the operation and maintenance of a memorial, and for the functions related to it.

The resolution shall be confined to the purposes set forth in this section, and shall specify the amount of increase in rate which it is necessary to levy, the purpose of the rate increase, and the number of years during which the increase shall be in effect. The increase may include a levy upon the tax duplicate of the current year. The number of years shall be any number not exceeding ten. The question of an increase in tax rate under divisions (A) and (B) of this section may be submitted to the electors on one ballot.

The total tax for the purposes included in this section shall not, in any year, exceed one mill of each dollar of valuation.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution, other than that provided for in the notice of election, shall be necessary.

Effective Date: 01-01-1954; 12-20-2005

345.02 Bond issue for soldiers' memorial.

The taxing authority of any municipal corporation, township, or county may issue the bonds of such subdivision for the purpose of purchasing a site, and for erecting, equipping, and furnishing, or for establishing a memorial to commemorate the services of all members and veterans of the armed forces of the United States. Any such taxing authority may determine to submit to the electors of the subdivision the question of issuing such bonds [and] make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of such section. The election on the question of issuing such bonds shall be held under divisions (E), (F), and (G) of section 133.18 of the Revised Code. Such bond issue shall require the affirmative vote of sixty per cent of those electors voting upon the proposition.

Effective Date: 10-30-1989

345.03 Tax levy resolution certified to board of elections - notice of election.

A copy of any resolution adopted under section 345.01 of the Revised Code shall be certified within five days by the taxing authority and not later than four p.m. of the seventy-fifth day before the day of the election, to the county board of elections, and such board shall submit the proposal to the electors of the subdivision at the succeeding

general election. The board shall make the necessary arrangements for the submission of such question to the electors of the subdivision, and the election shall be conducted, canvassed, and certified in like manner as regular elections in such subdivision.

Notice of the election shall be published in a newspaper of general circulation in the subdivision, at least once, not less than two weeks prior to such election. The notice shall set out the purpose of the proposed increase in rate, the amount of the increase expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of property valuation, the number of years during which such increase will be in effect, and the time and place of holding such election.

Effective Date: 03-23-1981

345.05 Majority vote required for approval of tax levy.

If a majority of the electors voting on the tax levy provided for in section 345.01 of the Revised Code, vote in favor thereof, the taxing authority of a political subdivision, as provided by such section, may levy a tax within such subdivision, at the additional rate outside of the ten-mill limitation, during the period and for the purpose stated in the resolution, or at any lesser rate, or for any of such years or purposes.

Effective Date: 02-20-1986

345.06 Appointment of board of trustees prior to vote of electors.

Prior to the vote of the electors authorizing bonds, or an additional tax levy as provided for in sections 345.02 to 345.05, inclusive, of the Revised Code, the taxing authority of the township or county or the mayor of the municipal corporation may, regardless of whether funds are presently available to complete the project, appoint a board of trustees, as provided by section 345.08 of the Revised Code, to determine and recommend to the taxing authority of the appointing subdivision the nature, extent, and estimated cost of an appropriate war memorial.

Such board shall formulate specific plans for the erection of such war memorial, or alternate plans, and obtain estimates of the cost of the completed project and all other information and data reasonably necessary to advise the residents of the appropriate subdivision as to the proposals of the board, either as an incident to an election for the voting of a tax levy or authorizing a bond issue, or both, for the purpose of erecting such memorial, or for the information of the appropriating authority in the event that the funds are available without a bond issue or additional tax levy.

Such board may call upon county engineers, city engineers, and other agencies of the appropriate subdivision to assist such board in preparing its proposals for such war memorial.

The taxing authority of the township, county, or municipal corporation may appropriate such amounts as are reasonably necessary to defray the preliminary expenses of such board incurred in hiring architects, engineers, and other persons or organizations to assist in preparing plans and estimates of the cost of a war memorial.

Effective Date: 10-01-1953

345.08 Board of trustees.

Within five days after the certification to the taxing authority of the result of an election held under sections 345.02 to 345.05 of the Revised Code, provided a majority of the votes cast on the proposal submitted are in favor of such proposal, or within five days after adoption by the taxing authority of an ordinance or resolution to authorize the issuance of any such bonds without a vote of the electors, the taxing authority of the township or county, or the mayor of the municipal corporation shall appoint a board of trustees, consisting of eleven members, which shall, at all times, be so constituted that at least seven of its members are honorably discharged veterans of the armed forces of the United States, having served in one or more wars in which the United States was a belligerent. Not more than six members of the board shall be from the same political party. Five of such trustees shall be appointed for three years and six for five years, and thereafter, on the expiration of the original term, appointments shall be made for terms of five years. Appointments to fill vacancies shall be for the unexpired term.

Effective Date: 02-20-1986

345.09 Meetings of board of trustees.

The appointing authority of the board of trustees provided by section 345.08 of the Revised Code, in making the appointments, shall fix a time and place for the first meeting of the board and shall give the trustees notice of such meeting. The time of such first meeting shall be not more than fifteen days after the date of their appointment. The board shall meet at the time and place appointed, and shall organize by the selection of a president, a vice-president, and a secretary, who need not be a member of the board, but who shall be a veteran, or the surviving spouse or parent of a deceased veteran who served in the armed forces of the United States in time of war. The compensation of such secretary shall be fixed by the board.

The trustees shall serve without compensation, but shall be allowed traveling and other expenses, which, with the compensation of the secretary and other necessary expenses of the board, shall be paid from the fund provided by section 345.11 of the Revised Code, on the order of the president and secretary, after being allowed and approved by the board at an authorized meeting.

Vacancies in the office of trustee shall be filled in the manner provided by section 345.08 of the Revised Code. The board shall hold regular meetings at such time and place as it agrees upon, and special meetings shall be held under such regulations as it prescribes. The board shall keep a full record of its proceedings.

Effective Date: 10-25-1978

345.10 Bond of trustees - employment of superintendents and architects.

Before making any expenditures from the memorial fund, the trustees appointed under section 345.08 of the Revised Code shall give bond to the state in such sum as the appointing authority fixes, and to the approval of such authority. Premium payments for such bond shall be an authorized expenditure by the board of trustees.

The board may appoint and employ such superintendents, architects, clerks, laborers, and other employees as are necessary, and fix their compensation. Whenever qualified veterans are available such appointees shall be veterans of the armed forces of the United States. Any such person may be removed at any time by a majority of the board.

Effective Date: 10-01-1953

345.11 The memorial fund.

The fund arising from a tax levy, or the proceeds from the sale of bonds authorized to be issued under sections 345.01 to 345.17, inclusive, of the Revised Code, shall be placed in the treasury of the subdivision to the credit of a fund to be known as "The Memorial Fund." Such fund shall be paid out on the order of the board of trustees, certified by the president and secretary of such board.

Effective Date: 10-01-1953

345.12 Establishment of memorial - acquisition of site - donations.

The board of trustees may provide for the establishment, arrangement, plans, and design of the soldiers' memorial provided by section 345.01 of the Revised Code; it may provide for the maintenance of such memorial; it may make such contracts, and such purchases of supplies and materials as are necessary. The board may acquire by purchase, condemnation, or otherwise, any necessary site for such memorial. Before acquiring any site or making any contract for construction of a memorial, the board shall secure the approval of such site and the design of the memorial from the taxing authority of the appointing subdivision. If it is necessary to condemn property for such purpose, the site fixed by the board shall be appropriated as provided for the appropriation of lands by the subdivision by which said board was appointed, and all purchases and contracts shall be made pursuant to the applicable laws of such subdivision. The board may accept donations of personal or real property or money, and all donations of money by gift, bequest, or otherwise shall be placed to the credit of the memorial fund.

Effective Date: 10-01-1953

345.13 Purpose of soldiers' memorial.

A soldiers' memorial, provided for by section 345.01 of the Revised Code, shall be maintained so as to commemorate the services of all members and veterans of the armed forces of the United States. The board of trustees shall make rules and regulations for the use, administration, and maintenance of such memorial as is fitting and necessary to carry out the purposes thereof.

When such memorial is a building, it shall provide suitable apartments of sufficient dimensions to commemorate the soldiers, sailors, marines, and all members of the armed forces of the United States, so designated by congress, both men and women of the county, who have lost their lives while in the service of the country. Suitable tablets shall be maintained with the names of such soldiers, sailors, and marines inscribed thereon. The building may include a public auditorium, music hall, and recreational facilities.

The board may establish rental fees and other charges for the use of the memorial, and it may waive any portion of such charges.

Effective Date: 10-01-1953

345.14 Powers of board of trustees.

The board of trustees, established by section 345.08 of the Revised Code, in addition to its usual powers shall:

(A) Conduct, maintain, and operate a soldiers' memorial, for the benefit of the entire county, for community, civic, and patriotic purposes;

(B) Provide, with or without cost, suitable and convenient county headquarters for all nationally organized veterans' organizations, chartered by congress;

(C) Use, rent, and lease office space in such memorial buildings to agencies of the United States and of this state or any of their political subdivisions engaged in any activity for the benefit of the men and women of the armed forces of the United States and the honorably discharged veterans thereof, and all earnings or receipts shall be used for the maintenance thereof;

(D) Co-ordinate and assemble within a county, as nearly as possible, in a one-stop information or service center in such memorial, all governmental agencies operated for the benefit of the honorably discharged veterans of the armed forces of the United States.

(E) Deposit in a bank or trust company, subject to the provisions of sections 135.01 to 135.21, inclusive, of the Revised Code, all moneys, gifts and rentals excepting funds arising from the proceeds of the sale of bonds coming into the possession of said board of trustees by virtue of its operation. Thereupon, such funds may be disbursed by the board of trustees for the uses and purposes of such memorials and shall be accounted for as provided by law.

Effective Date: 06-11-1968

345.15 Interest in contract.

No trustee, officer, or employee of the board of trustees of a soldiers' memorial shall be interested in any contract entered into by the board, nor shall a trustee, officer, or employee of the board be individually liable to any contractor upon any contract made under sections 345.01 to 345.17, inclusive, of the Revised Code, or to any person on any claim occasioned by any act or default of a contractor, or any one employed by such contractor.

Effective Date: 10-01-1953

345.16 Employment of veterans.

The board of trustees, for soldiers' memorials under its control, shall employ only honorably discharged soldiers, sailors, and marines, both men and women, of the armed forces of the United States, if available, as caretakers, janitors, or employees.

Employment of any person who is not such an honorably discharged soldier, sailor, or marine, without a showing on the journal of the board that none of the latter were available, shall be void, and it shall be unlawful to pay any money out of any fund to such person.

Effective Date: 10-01-1953

345.17 Permitting use of county buildings.

The board of county commissioners may permit the occupancy by any society or association of soldiers, sailors, marines, and pioneers, or any historical association, of any county building, or part thereof, not necessary for other county purposes.

Effective Date: 10-01-1953

345.18 Limitation.

Sections 345.01 to 345.17, inclusive, of the Revised Code apply exclusively to memorials erected, equipped, furnished, and maintained or established by any political subdivisions of the state. All sections of the Revised Code, inconsistent with or prohibiting the exercise of the authority conferred by sections 345.01 to 345.17, inclusive, of the Revised Code, shall be deemed to be inoperative for the purpose of such sections.

Effective Date: 10-01-1953

Title Five
Townships

Chapter 511 Memorial buildings; halls; parks

511.08 Petition to build memorial.

Whenever a petition is presented to the board of township trustees, signed by not less than fifteen per cent of the electors of the township as shown at the most recent general election held therein, requesting the submission to such electors of the question of issuing bonds in an amount not to exceed one hundred thousand dollars, for purchasing a site, if necessary, and erecting and furnishing a memorial building, or erecting and maintaining a suitable and appropriate monument, statue, or memorial to commemorate the services of the soldiers, sailors, and marines of such township, the board shall provide by resolution for the submission of such question to the electors as provided by section 133.18 of the Revised Code.

In case the petitions requesting the submission of such question are filed in two or more townships the total amount of bonds estimated for such purpose shall be divided among such townships in proportion to the tax valuation of each, as shown by its tax duplicate.

Effective Date: 08-22-1995

511.09 Memorial fund - application of fund - trustees.

If a soldier's memorial is to be erected by a single township, the proceeds of bonds issued under section 511.08 of the Revised Code, other than any premium and accrued interest which shall be credited to the sinking fund, shall be placed in the township treasury to the credit of a fund to be known as "the memorial fund." If such bonds are issued by two or more townships to build a joint building, the board of township trustees of each township shall select one of its members, who, with the other board members so selected, shall constitute and be known as the "memorial trustees." Such trustees may perform all acts imposed upon the board of township trustees by sections 511.10 to 511.14, inclusive, of the Revised Code. "Board of township trustees" as used in sections 511.10 to 511.14, inclusive, of the Revised Code, with reference to the powers and duties of such board as to the construction of such memorial building, monument, statue, or memorial, includes "memorial trustees" in case of a joint building. Such fund shall be paid out upon the order of the board of township trustees. Upon the completion of the memorial building, monument, statue, or memorial, any unexpended balance shall be transferred and placed to the credit of the sinking fund.

Effective Date: 10-01-1953

511.14 Commemorative tablets.

There shall be provided in a memorial building, erected under sections 511.08 to 511.17, inclusive, of the Revised Code, suitable apartments, of sufficient dimensions, to

commemorate the soldiers, sailors, and marines of the township who lost their lives while in the service of the United States, and the names of such soldiers, sailors, and marines shall be inscribed on suitable tablets in the building or on the monument, statue, or memorial so erected.

Effective Date: 10-01-1953

511.15 Memorial trustees.

Upon the completion and equipping of a soldier's memorial building, the board of township trustees shall certify such fact to the court of common pleas of the county in which the building was constructed, and the court thereupon shall appoint a board of permanent "memorial trustees," composed of seven citizens of the township; but if two or more townships unite in constructing a joint building each township shall be represented on each board, one of which members shall be appointed for the term of one year, one for two years, one for three years, one for four years, one for five years, one for six years, and one for seven years, and each year thereafter the court shall appoint a successor, for a term of seven years, to the trustee whose term of office then expires. Not more than four of the members of said board of trustees shall belong to the same political party.

In the case of any memorial building existing prior to April 17, 1925, the court shall appoint the board in the manner provided in this section.

Upon such appointment by the court the board of township trustees shall transfer the memorial building and other property and funds acquired under section 511.11 of the Revised Code to the board of permanent memorial trustees and the title of such property shall thereupon vest in such board and the memorial trustees provided for in section 511.09 of the Revised Code, shall cease to exist as an official board.

Effective Date: 10-01-1953

Title Eleven
Financial Institutions

Chapter 1151 Savings and loan associations-generally

1151.31 Loans guaranteed by federal administrator of veterans' affairs and other federal agencies.

Notwithstanding sections 1151.29 to 1151.296 , inclusive, and 1151.42 of the Revised Code and the constitution and bylaws of the building and loan association, the association may make, buy, sell, or hypothecate any loan secured by lien on real estate, if the loan is approved, insured, or guaranteed, in part or in full, or if a conditional guarantee of the loan has been issued, by the federal administrator of veterans' affairs, or by the United States or any instrumentality thereof.

A farm loan made under this section shall be deemed secured by lien on real estate, even though the security includes livestock or farm equipment, or both, if such livestock or farm equipment, or both, are used in connection with the operation of the real estate pledged as security for said loan.

Effective Date: 08-03-1955

Title Thirty-one
Domestic relations-children

Chapter 3109 Children

3109.02 Exception for veterans.

Any person who is eligible for a loan under the Servicemen's Readjustment Act of 1944, any amendments thereto or re-enactment thereof, the Veterans Readjustment Assistance Act of 1952, any amendments thereto or re-enactment thereof, the Act of September 2, 1958, Public Law 85-857, 72 Stat. 1105, any amendments thereto or re-enactment thereof, or the Veterans Readjustment Benefits Act of 1966, any amendments thereto or re-enactments thereof, whether or not he or his spouse is a minor, may, in his name and without any order of court or the intervention of a guardian or trustee, execute any instruments, take title to real property, borrow money thereon, and do all other acts necessary to secure to him all rights and benefits under said acts, or any regulations thereunder, in as full and ample manner as if he and his spouse had attained the age of eighteen years. No person eligible for such loan, or his spouse, is, by reason only of such minority, incompetent to acquire title to property by contract or to borrow thereon; and no instrument made in connection with acquiring title to real estate or making such loan shall be voidable on the grounds of minority of such person or his spouse.

Any person who has qualified under said acts or any regulations thereunder and has secured a loan and taken title to real property thereunder is capable of disposing of such property by deed or other conveyance, notwithstanding the fact that he or his spouse is a minor, and no such deed or other conveyance shall be voidable on the grounds of minority of such person or his spouse.

Effective Date: 01-01-1974

Title Thirty-three
Education-Libraries

Chapter 3307 State Teachers Retirement System

3307.63 Benefits upon disability retirement.

A member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code who has elected disability coverage under this section, has not attained age sixty, and is determined by the state teachers retirement board under section 3307.62 of the Revised Code to qualify for a disability benefit shall be retired on disability under this section.

Upon disability retirement, a member shall receive an annual amount that shall consist of:

(A) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(B) A pension that shall be the difference between the annuity and an annual amount determined by multiplying the number of years of Ohio service credit of such member, and in addition the number of years and fraction of a year between the effective date of the member's disability retirement and the date the member attained age sixty, assuming continuous service, by eighty-six dollars, or by two per cent of the member's final average salary, whichever is greater. Such disability retirement shall not be less than thirty per cent nor more than seventy-five per cent of the member's final average salary, except that it shall not exceed any limit to which the retirement system is subject under section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

If the member is not receiving a disability benefit under section 3307.57 of the Revised Code, but is receiving a disability benefit from either the public employees retirement system or the school employees retirement system, then such member shall not be eligible for service credit based upon the number of years and fractions thereof between the date of disability and the date the member attained age sixty as otherwise provided in this section.

A disability retiree under this section whose disability retirement has been terminated, when eligible, may apply for service retirement provided by section 3307.58 of the Revised Code.

Effective Date: 07-13-2000

3307.75 Credit for military service.

(A) As used in this section, "armed forces" of the United States includes both:

(1) Army, navy, air force, marine corps, coast guard, auxiliary corps as established by congress, army nurse corps, navy nurse corps, red cross nurse serving with the army, navy, air force, or hospital service of the United States, full-time service with the American red cross in a combat zone, and such other service as is designated by the congress as included therein;

(2) Personnel of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, and the reserve components of the armed forces enumerated in division (A)(1) of this section who are called to active duty pursuant to an executive order issued by the president of the United States or an act of congress.

(B) Upon presentation of an honorable discharge or certificate of service, and subject to rules adopted by the state teachers retirement board, any member of the state teachers retirement system participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code who was or is out of active service as a teacher by reason of having become a member of the armed forces of the United States on active duty or service shall be considered as on indefinite leave of absence and shall have such service not in excess of ten years considered as the equivalent of prior service, provided the member returns to service as a teacher within two years after the effective date of discharge and establishes one year of service credit, or becomes a member of either the public employees retirement system or the school employees retirement system within such two-year period and establishes at least one year of service credit. The retirement board shall extend such two-year period an additional year if failure to return is due to continuous professional training as determined by said board. If such member, otherwise qualified for such credit, canceled membership by the withdrawal of the member's accumulated account, such military service credit shall be granted following the restoration of the member's canceled service credit as provided by section 3307.71 of the Revised Code. Any member of the state teachers retirement system or anyone who

becomes a new entrant who is assigned or called to take charge of special training for essential national defense work or veterans' training courses in any of the public schools or universities of the state may make regular contributions to the state teachers retirement system even though the member's or new entrant's salary is paid from federal funds, provided the member's or new entrant's salary is disbursed by an employer.

(C) A member of the state teachers retirement system is ineligible to receive service credit under this section for any year of military service credit used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program, except social security, or used to obtain service credit pursuant to section 3307.751 or 3307.752 of the Revised Code. At the time such credit is requested, the member shall certify on a form supplied by the board that the member does and will conform to this requirement. This division does not cancel any military service credit earned prior to March 15, 1979.

Effective Date: 07-13-2000

3307.751 Purchasing military service credit.

(A)(1) A member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code may purchase service credit that shall be considered as the equivalent of Ohio service for each year or portion of a year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in section 3307.75 of the Revised Code.

(2) As used in division (A)(2) of this section, "reserves" means a reserve component of any of the armed forces of the United States enumerated in division (A)(1) of section 3307.75 of the Revised Code.

On presentation of documentation of the service and subject to state teachers retirement board rules, a member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code may purchase service credit that shall be considered as the equivalent of Ohio service for each year or portion of a year of service incurred by reason of having been on active duty as a member of the Ohio national guard or reserves for which the member is not eligible to purchase credit under division (A)(1) of this section. For purposes of division (A)(2) of this section, active duty in the reserves or the Ohio national guard includes assembly for drill and instruction; training at encampments, maneuvers, outdoor target practice, or other exercises; and any training or duty in this state ordered by the governor.

(3) Credit shall not be granted for any period of duty during which the member was contributing to the retirement system.

The credit may be purchased at any time prior to the effective date of a benefit. The number of years purchased under this division shall not exceed five.

(B) For the purposes of this division, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the armed forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

A member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code may purchase service credit that shall be considered as the equivalent of Ohio service for each year of service such member was a prisoner of war. The number of years purchased under this division shall not exceed five. Service credit may be purchased under this division for the same years of service used to purchase service credit under division (A) of this section.

(C) The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service.

(D)(1) Except as otherwise provided in division (D)(2) or (3) of this section, for each year or portion of a year of service purchased under division (A) or (B) of this section, the member shall pay to the state teachers retirement system for credit to the member's accumulated account an amount determined by the member rate of contribution in effect at the time the military service began multiplied by the member's annual compensation for full-time employment during the first year of service in Ohio following termination of military service. If, however, a limit on maximum salary or maximum contribution was in effect at the time the military service began, the limit shall be applied to the salary received during the first year of service in Ohio to calculate the amount of payment. To this amount shall be added an amount equal to compound interest at a rate established by the state teachers retirement board from the date active military service terminated to date of payment.

(2) For each year of service purchased under division (A)(1) or (B) of this section for military service that commenced on or after July 1, 1989, and, without regard to when the military service commenced, for each year of service purchased under division (A) or (B) of this section by a member who first established membership in the retirement system on or after July 1, 1989, the member shall pay to the retirement system for credit to the member's individual account an amount specified by the state teachers retirement board that shall be not less than fifty per cent of the additional liability resulting from the purchase of that year of service as determined by an actuary employed by the board.

(3) For each year or portion of a year of service in the reserves or Ohio national guard purchased under division (A)(2) of this section, the member shall pay to the retirement system for credit to the member's individual account an amount equal to one hundred per cent of the additional liability resulting from the purchase of that year of service as determined by an actuary employed by the board. The retirement system shall calculate the number of years or portions of a year of credit the member is eligible to purchase under division (A)(2) of this section by dividing the number of days actually served by three hundred sixty-five.

(4) A member may choose to purchase only part of the credit the member is eligible to purchase under this section in any one payment, subject to board rules.

(E) A member of the state teachers retirement system is ineligible to purchase service credit under this section for any year of military service that was:

(1) Used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program, except for retired pay for non-regular service under Chapter 1223 of Section 1662 of Title XVI of the "National Defense Authorization Act for Fiscal Year 1995," 108 Stat. 2998 (1994), 10 U.S.C.A. 12731 to 12739, or social security;

(2) Used to obtain service credit pursuant to section 3307.75 or 3307.752 of the Revised Code.

At the time the credit is purchased, the member shall certify on a form furnished by the board that the member does and will conform to this requirement.

(F) Credit purchased under this section may be combined pursuant to section 3307.57 of the Revised Code with credit for military service purchased under sections 145.301 and 3309.021 of the Revised Code, except that not more than a total of five years of credit purchased under division (A) of this section, division (B) of section 145.301, and division (A) of section 3309.021 and not more than a total of five years of credit purchased under

division (B) of this section, division (C) of section 145.301, and division (B) of section 3309.021 of the Revised Code shall be used in determining retirement eligibility or calculating benefits under section 3307.57 of the Revised Code.

Effective Date: 07-13-2000; 03-30-2007

Chapter 3309 Public school employees retirement system

3309.02 Credit for military service.

(A) As used in this section, "armed forces" of the United States includes both:

(1) Army, navy, air force, marine corps, coast guard, auxiliary corps as established by congress, army nurse corps, navy nurse corps, red cross nurse serving with the army, navy, air force, or hospital service of the United States, full-time service with the American red cross in a combat zone, and such other service as is designated by congress as included therein;

(2) Personnel of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, and the reserve components of the armed forces enumerated in division (A)(1) of this section who are called to active duty pursuant to an executive order issued by the president of the United States or an act of congress.

(B) Upon presentation of an honorable discharge or certificate of service, and subject to rules adopted by the school employees retirement board, any member of the school employees retirement system who was a member with not less than one year of unadjusted service credit prior to active service in the armed forces of the United States subsequent to October 31, 1965, and who returns to service as an employee or as an employee in a capacity covered by either the public employees retirement system or the state teachers retirement system within two years after receiving such discharge or release, and establishes one year of service credit, shall have such service considered as prior service, provided that the total amount of such service granted by the board shall not exceed ten years. This section shall not serve to cancel any military service credit earned or granted prior to November 1, 1965.

(C) A member of the school employees retirement system is ineligible to receive service credit under this section for any year of military service credit used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program, except social security, or used to obtain service credit pursuant to section 3309.021 or 3309.022 of the Revised Code. At the time such credit is requested, the member shall certify on a form supplied by the retirement board that the member does and will conform to this requirement. This division does not cancel any military service credit earned prior to March 15, 1979.

Effective Date: 10-29-1996

3309.021 Purchasing military service credit.

(A)(1) A member may purchase service credit that shall be considered as the equivalent of Ohio service for each year or portion of a year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in section 3309.02 of the Revised Code.

(2) As used in division (A)(2) of this section, "reserves" means a reserve component of any of the armed forces of the United States enumerated in division (A)(1) of section 3309.02 of the Revised Code.

On presentation of documentation of the service and subject to school employees retirement board rules, a member may purchase service credit that shall be considered as the equivalent of Ohio service for each year or portion of a year of service incurred by reason of having been on active duty as a member of the Ohio national guard or reserves for which the member is not eligible to purchase credit under division (A)(1) of this section. For purposes of division (A)(2) of this section, active duty in the reserves or the Ohio national guard includes assembly for drill and instruction; training at encampments, maneuvers, outdoor target practice, or other exercises; and any training or duty in this state ordered by the governor.

(3) Credit shall not be granted for any period of duty during which the member was contributing to the retirement system.

All or part of the credit may be purchased at any time prior to receipt of a retirement allowance. The number of years purchased under this division shall not exceed five.

(B) For the purposes of this division, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the armed forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

A member may purchase service credit that shall be considered as the equivalent of Ohio service for each year of service such member was a prisoner of war. The number of years purchased under this division shall not exceed five. Service credit may be purchased under this division for the same years of service used to purchase service credit under division (A) of this section. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service.

(D)(1) For each year or portion of a year of service purchased under division (A)(1) or (B) of this section, the member shall pay to the school employees retirement system for credit to the member's accumulated account an amount determined by the member rate of contribution in effect at the time the military service began multiplied by the annual compensation for full-time employment during the first year of service covered by the school employees retirement system, public employees retirement system, or state teachers retirement system following termination of military service. If, however, a limit on maximum salary or maximum contribution was in effect at the time the military service began, the limit shall be applied to the salary received during the first year of service in Ohio to calculate the amount of payment. To this amount shall be added an amount equal to compound interest at a rate established by the school employees retirement board from the date of the member's first service covered by the school employees retirement system, public employees retirement system, or state teachers retirement system following termination of the military service to date of payment.

(2) For each year or portion of a year of service in the reserves or Ohio national guard purchased under division (A)(2) of this section, the member shall pay to the retirement system for credit to the member's individual account an amount equal to one hundred per cent of the additional liability resulting from the purchase of that year of service as determined by an actuary employed by the board. The retirement system shall calculate the number of years or portions of a year of credit the member is eligible to purchase under division (A)(2) of this section by dividing the number of days actually served by three hundred sixty-five.

(E) A member of the school employees retirement system is ineligible to purchase service credit under this section for any year of military service that was:

(1) Used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program, except for retired pay for nonregular service under Chapter 1223 of Section 1662 of Title XVI of the "National Defense Authorization Act for Fiscal Year 1995," 108 Stat. 2998 (1994), 10 U.S.C.A. 12731 to 12739, or social security;

(2) Used to obtain service credit pursuant to section 3309.02 or 3309.022 of the Revised Code.

At the time such credit is purchased, the member shall certify on a form furnished by the retirement board that the member does and will conform to this requirement.

(F) Credit purchased under this section may be combined pursuant to section 3309.35 of the Revised Code with credit for military service purchased under sections 145.301 and 3307.751 of the Revised Code, except that not more than an aggregate total of five years of credit purchased under division (A) of this section, division (B) of section 145.301, and division (A) of section 3307.751 of the Revised Code, and not more than an aggregate total of five years of credit purchased under division (B) of this section, division (C) of section 145.301, and division (B) of section 3307.751 of the Revised Code shall be used in determining retirement eligibility or calculating benefits under section 3309.35 of the Revised Code.

Effective Date: 07-13-2000; 03-30-2007

Chapter 3319 Schools-superintendent; teachers; employees

3319.13 Leave of absence - request - employment of replacement.

Upon the written request of a teacher or a regular nonteaching school employee, a board of education may grant a leave of absence for a period of not more than two consecutive school years for educational, professional, or other purposes, and shall grant such leave where illness or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. Without request, a board may grant similar leave of absence and renewals thereof to any teacher or regular nonteaching school employee because of physical or mental disability, but such teacher may have a hearing on such unrequested leave of absence or its renewals in accordance with section 3319.16 of the Revised Code, and such nonteaching school employee may have a hearing on such unrequested leave of absence or its renewals in accordance with division (C) of section 3319.081 of the Revised Code. Upon the return to service of a teacher or a nonteaching school employee at the expiration of a leave of absence, the teacher or nonteaching school employee shall resume the contract status that the teacher or nonteaching school employee held prior to the leave of absence. Any teacher who leaves a teaching position for service in the uniformed services and who returns from service in the uniformed services that is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, shall resume the contract status held prior to entering the uniformed services, subject to passing a physical examination by an individual authorized by the Revised Code to conduct physical examinations, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination. Such contract status shall be resumed at the first of the school semester or the beginning of the school year following return from the uniformed services. For purposes of this section and section 3319.14 of the Revised Code, "uniformed services" and "service in the uniformed services" have the same meanings as defined in section 5923.05 of the Revised Code.

Upon the return of a nonteaching school employee from a leave of absence, the board may terminate the employment of a person hired exclusively for the purpose of replacing the returning employee while the returning employee was on leave. If, after the return of a nonteaching employee from leave, the person employed exclusively for the purpose of replacing an employee while the employee was on leave is continued in employment as a regular nonteaching school employee or if the person is hired by the board as a regular nonteaching school employee within a year after employment as a replacement is terminated, the person shall, for purposes of section 3319.081 of the Revised Code, receive credit for the person's length of service with the school district during such replacement period in the following manner:

(A) If employed as a replacement for less than twelve months, the person shall be employed under a contract valid for a period equal to twelve months less the number of months employed as a replacement. At the end of such contract period, if the person is reemployed it shall be under a two-year contract. Subsequent reemployment shall be pursuant to division (B) of section 3319.081 of the Revised Code.

(B) If employed as a replacement for twelve months or more but less than twenty-four months, the person shall be employed under a contract valid for a period equal to twenty-four months less the number of months employed as a replacement. Subsequent reemployment shall be pursuant to division (B) of section 3319.081 of the Revised Code.

(C) If employed as a replacement for more than twenty-four months, the person shall be employed pursuant to division (B) of section 3319.081 of the Revised Code.

For purposes of this section, employment during any part of a month shall count as employment during the entire month.

Effective Date: 03-31-2003; 2008 SB289 08-22-2008

3319.14 Military leave of absence.

Any teacher who has left, or leaves, a teaching position, by resignation or otherwise, and within forty school days thereafter entered, or enters, the uniformed services and whose service is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, shall be reemployed by the board of education of the district in which the teacher held such teaching position, under the same type of contract as that which the teacher last held in such district, if the teacher applies to the board of education for reemployment in accordance with the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4312. Upon such application, the teacher shall be reemployed at the first of the next school semester, if the application is made not less than thirty days prior to the first of the next school semester, in which case the teacher shall be reemployed the first of the following school semester, unless the board of education waives the requirement for the thirty-day period.

For the purposes of seniority and placement on the salary schedule, years of absence performing service in the uniformed services shall be counted as though teaching service had been performed during such time.

The board of education of the district in which such teacher was employed and is reemployed under this section may suspend the contract of the teacher whose services become unnecessary by reason of the return of a teacher from service in the uniformed services in accordance with section 3319.17 or 3319.171 of the Revised Code.

Effective Date: 06-30-2000

Chapter 3333 Ohio Board of Regents

3333.26 Waiving tuition for child or spouse of public service officer killed in line of duty.

(A) Any citizen of this state who has resided within the state for one year, who was in the active service of the United States as a soldier, sailor, nurse, or marine between April 6, 1917, and November 11, 1918, and who has been honorably discharged from that service, shall be admitted to any school, college, or university that receives state funds in support thereof, without being required to pay any tuition or matriculation fee, but is not relieved from the payment of laboratory or similar fees.

(B)(1) As used in this division:

(a) "Volunteer firefighter" has the meaning as in division (B)(1) of section 146.01 of the Revised Code.

(b) "Public service officer" means an Ohio firefighter, volunteer firefighter, police officer, member of the state highway patrol, employee designated to exercise the powers of police officers pursuant to section 1545.13 of the Revised Code, or other peace officer as defined by division (B) of section 2935.01 of the Revised Code, or a person holding any equivalent position in another state.

(c) "Qualified former spouse" means the former spouse of a public service officer, or of a member of the armed services of the United States, who is the custodial parent of a minor child of that marriage pursuant to an order allocating the parental rights and responsibilities for care of the child issued pursuant to section 3109.04 of the Revised Code.

(d) "Operation enduring freedom" means that period of conflict which began October 7, 2001, and ends on a date declared by the president of the United States or the congress.

(e) "Operation Iraqi freedom" means that period of conflict which began March 20, 2003, and ends on a date declared by the president of the United States or the congress.

(f) "Combat zone" means an area that the president of the United States by executive order designates, for purposes of 26 U.S.C. 112, as an area in which armed forces of the United States are or have engaged in combat.

(2) Any resident of this state who is under twenty-six years of age, or under thirty years of age if the resident has been honorably discharged from the armed services of the United States, who is the child of a public service officer killed in the line of duty or of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

A child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom is eligible for a waiver of tuition and student fees under this division only if the student is not eligible for a war orphans scholarship authorized by Chapter 5910. of the Revised Code. In any year in which the war orphans scholarship board reduces the percentage of tuition covered by a war orphans scholarship below one hundred per cent pursuant to division (A) of section

5910.04 of the Revised Code, the waiver of tuition and student fees under this division for a child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom shall be reduced by the same percentage.

(3) Any resident of this state who is the spouse or qualified former spouse of a public service officer killed in the line of duty, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

(4) Any resident of this state who is the spouse or qualified former spouse of a member of the armed services of the United States killed in the line of duty while serving in a combat zone after May 7, 1975, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four years of academic education, which shall be at the undergraduate level. In order to qualify under division (B)(4) of this section, the spouse or qualified former spouse shall have been a resident of this state at the time the member was killed in the line of duty.

(C) Any institution that is not subject to division (B) of this section and that holds a valid certificate of registration issued under Chapter 3332. of the Revised Code, a valid certificate issued under Chapter 4709. of the Revised Code, or a valid license issued under Chapter 4713. of the Revised Code, or that is nonprofit and has a certificate of authorization issued under section 1713.02 of the Revised Code, or that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, which reduces tuition and student fees of a student who is eligible to attend an institution of higher education under the provisions of division (B) of this section by an amount indicated by the chancellor of the Ohio board of regents shall be eligible to receive a grant in that amount from the chancellor.

Each institution that enrolls students under division (B) of this section shall report to the chancellor, by the first day of July of each year, the number of students who were so enrolled and the average amount of all such tuition and student fees waived during the preceding year. The chancellor shall determine the average amount of all such tuition and student fees waived during the preceding year. The average amount of the tuition and student fees waived under division (B) of this section during the preceding year shall be the amount of grants that participating institutions shall receive under this division during the current year, but no grant under this division shall exceed the tuition and student fees due and payable by the student prior to the reduction referred to in this division. The grants shall be made for four years of undergraduate education of an eligible student.

Effective Date: 02-20-2002; 08-11-2004; 09-04-2006; 2007 HB2 05-15-2007

Title Thirty-five
Elections

Chapter 3501 Election Procedure; Election Officials

3501.20 State or national home for disabled soldiers may be a precinct.

The lands used for a state or national home for disabled soldiers shall constitute a separate election precinct, and, if necessary, may be divided and rearranged within such limits as other precincts are arranged and divided.

Effective Date: 10-01-1953

Chapter 3503 Voters-Qualifications; Registration

3503.03 Residence for soldiers in national home for such soldiers.

Infirm or disabled soldiers who are inmates of a national home for such soldiers, who are citizens of the United States and have resided in this state thirty days immediately preceding any election, and who are otherwise qualified as to age and residence within the county and township shall have their lawful residence in the county and township in which such home is located.

Effective Date: 08-22-1995

Title Thirty-seven
Health-Safety-Morals

Chapter 3735 Metropolitan Housing Authority; Community Reinvestment Areas

3735.42 Veteran preference.

(A) Except as provided in any contract for financial assistance with the federal government in the selection of tenants for housing projects, a metropolitan housing authority shall give preference, as among applicants equally in need and eligible for occupancy of the dwelling and at the rent involved, to families of veterans and persons serving in the active military or naval service of the United States, including families of deceased veterans or deceased persons who were so serving at the time of death.

(B) As used in this section:

(1) "Veteran" means either of the following:

(a) A person who has served in the active military or naval service of the United States and who was discharged or released therefrom under conditions other than dishonorable;

(b) A person who served as a member of the United States merchant marine and to whom either of the following applies:

(i) The person has an honorable report of separation from active duty military service, form DD214 or DD215.

(ii) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(2) "United States merchant marine" includes the United States army transport service and the United States naval transport service.

Effective Date: 03-17-2000

3735.62 Veterans housing corporations.

(A) Any five or more veterans, all of whom are citizens of the United States and residents of this state, may form a corporation not for profit under sections 1702.01 to 1702.58 of the Revised Code, relating to corporations not for profit, for the purpose of purchasing real property and constructing thereon residences for sale to members of such corporation without any profit to the corporation, borrowing money for such purpose, and mortgaging or pledging any assets of the corporation as security therefor, and doing such other things as are appropriate in order to carry out such purpose. The business of such corporation shall be carried on only within such municipal corporation or other political subdivision of this state as is specified in the articles of incorporation. Except as specified in this section, such corporation shall be governed by such sections.

(B) As used in this section:

(1) "Veteran" means either of the following:

(a) Any person who has served in any branch of the armed forces of the United States in or during any war in which this country has been or is engaged;

(b) Any person who has served as a member of the United States merchant marine and to whom either of the following applies:

(i) The person has an honorable report of separation from the active duty military service, form DD214 or DD215.

(ii) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(2) "United States merchant marine" includes the United States army transport service and the United States naval transport service.

Effective Date: 03-17-2000

Title Forty-one
Labor and Industry

Chapter 4123 Workers' Compensation

4123.63 Service-connected injury.

If a person in active service in the armed forces of the United States at any time during a period of war as defined in the "Veterans' Pension and Readjustment Assistance Act of 1967," 81 Stat. 181, 38 U.S.C. 101 or the period beginning May 1, 1940, and ending December 7, 1941, sustained an injury or suffered a disease while in such service, and if the person is thereafter injured or suffers an occupational disease in the course of and arising out of his employment in this state, and the industrial commission or the bureau of workers' compensation awards compensation therefor, it shall determine what part, if any, of the compensation is attributable to the injury or disease which the person sustained or suffered while in the service and what part of the compensation is attributable to the injury or occupational disease sustained or suffered in the course of and arising out of his employment in this state. That part of the compensation attributable to the injury or disease sustained or suffered while in the service shall be paid out of the statutory surplus of the state insurance fund created under section 4123.34 of the Revised Code, and shall not be merit rated or otherwise treated as part of the accident or occupational disease experience of the employer of the employee. That part of the compensation attributable to the injury or occupational disease sustained or suffered in the course of and arising out of his employment in this state shall be merit

rated and treated as part of the accident or occupational disease experience of the employer of the employee, and shall be paid out of the state insurance fund, unless the employer is a self-insuring employer as provided for in section 4123.35 of the Revised Code, in which case payment shall be made by the self-insuring employer. In such case the administrator of workers' compensation may order the employer to pay the employee the full amount of compensation awarded the employee by the commission or the bureau, and in such event it shall order the employer reimbursed out of the statutory surplus of the state insurance fund for that part of the compensation paid which the commission or bureau determines to be attributable to the injury or disease sustained or suffered in the service. Nothing in this section is applicable in connection with any award of compensation made by the commission or bureau to an employee of an employer who has neither contributed to the state insurance fund nor elected to pay compensation directly under section 4123.35 of the Revised Code.

The records of any agency of the United States authorized to keep or preserve the records of service of persons in active service in the armed forces of the United States at any time during a period of war as defined in the "Veterans' Pension and Readjustment Assistance Act of 1967," 81 Stat. 181, 38 U.S.C. 101 or the period beginning May 1, 1940, and ending December 7, 1941, or to determine the fact of injury or disease of the person sustained or suffered while in service, when made available to the commission and the bureau in such manner and form as it deems proper, shall be deemed by the commission and the bureau to establish prima facie the facts of the service and the fact as to whether or not the person sustained or suffered an injury or disease while in the service, and if so, the nature thereof, and the prima-facie establishment may be deemed by the commission and the bureau to be overcome only upon clear and convincing evidence to the contrary.

The administrator may accept and credit to the statutory surplus of the state insurance fund any sum of money that may at any time be contributed to or made available to the state by the United States under any act of congress, or otherwise, to which the state is, or may become, entitled by reason of any payments made to employees out of the statutory surplus in accordance with this chapter.

Effective Date: 11-03-1989

Chapter 4141 Unemployment Compensation

4141.31 Benefits reduced by remuneration.

(A) Benefits otherwise payable for any week shall be reduced by the amount of remuneration or other payments a claimant receives with respect to such week as follows:

- (1) Remuneration in lieu of notice;
- (2) Compensation for wage loss under division (B) of section 4123.56 of the Revised Code or a similar provision under the workers' compensation law of any state or the United States;
- (3) Payments in the form of retirement, or pension allowances as provided under section 4141.312 of the Revised Code;
- (4) Except as otherwise provided in division (D) of this section, remuneration in the form of separation or termination pay paid to an employee at the time of the employee's separation from employment;

(5) Vacation pay or allowance payable under the terms of a labor-management contract or agreement, or other contract of hire, which payments are allocated to designated weeks.

If payments under this division are paid with respect to a month then the amount of remuneration deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by twelve and dividing the product by fifty-two. If there is no designation of the period with respect to which payments to an individual are made under this section then an amount equal to such individual's normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following the individual's separation or termination from the employment of the employer making the payment until such amount so paid is exhausted.

If benefits for any week, when reduced as provided in this division, result in an amount not a multiple of one dollar, such benefits shall be rounded to the next lower multiple of one dollar.

Any payment allocated by the employer or the director of job and family services to weeks under division (A)(1), (4), or (5) of this section shall be deemed to be remuneration for the purposes of establishing a qualifying week and a benefit year under divisions (O)(1) and (R) of section 4141.01 of the Revised Code.

(B) Benefits payable for any week shall not be reduced by the amount of remuneration a claimant receives with respect to such week in the form of drill or reserve pay received by a member of the Ohio national guard or the armed forces reserve for attendance at a regularly scheduled drill or meeting.

(C) No benefits shall be paid for any week with respect to which or a part of which an individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, provided the disqualifications shall not apply if the appropriate agency of such other state or of the United States finally determines that an individual is not entitled to such unemployment benefits. A law of the United States providing any payment of any type and in any amounts for periods of unemployment due to lack of work shall be considered an unemployment compensation law of the United States.

(D) Benefits payable for any week shall not be reduced by the amount of military severance, disability, or separation pay paid to an individual who is a former member of the armed forces of the United States.

Effective Date: 07-01-2000; 09-05-2005; 2008 HB562 09-22-2008

Title Forty-five
Motor Vehicles – Aeronautics – Watercraft

Chapter 4503 Licensing of motor vehicles

4503.53 Veterans who served in certain combat zones - license plates.

Any person who served in the armed forces of the United States in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and who is on active duty or is an honorably discharged veteran may apply to the

registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence of the applicant's service as the registrar requires by rule. In the case of an honorably discharged veteran, the written evidence shall include a copy of the applicant's DD-214 form or an equivalent document.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of military service in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code and any applicable local tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In accordance with rules adopted by the registrar, each license plate shall be inscribed with identifying letters or numerals and the word "VETERAN"; in addition, each license plate shall be inscribed with a design and words indicating service in Saudi Arabia, Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam conflict, the Korean conflict, World War II, or World War I.

Effective Date: 10-29-1999; 09-29-2005

4503.54 Retired or honorably discharged veterans license plates.

(A) Any person who is on active duty or is a retired or honorably discharged veteran of any branch of the armed forces of the United States may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence that the applicant is on active duty or is a retired or honorably discharged veteran of a branch of the armed forces of the United States as the registrar shall require by rule.

Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence documenting that the applicant is on active duty or is a retired or honorably discharged veteran of a branch of the armed forces of the United States, and payment of the regular license fees as prescribed under section 4503.04 of the Revised Code and any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall contain one of the following inscriptions, as appropriate: "U.S. ARMED FORCES ACTIVE DUTY — (BRANCH OF SERVICE)," "U.S. ARMED FORCES RETIRED — (BRANCH OF SERVICE)," or "U.S. ARMED FORCES VETERAN — (BRANCH OF SERVICE)." Depending upon the format of the inscription, the registrar shall determine whether or not the inscription contains the dash. The license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Sections 4503.77 and 4503.78 of the Revised Code do not apply to license plates issued under this section.

Effective Date: 02-12-2001; 03-23-2005

4503.541 National defense service medal license plates.

(A) Any person who has been awarded the national defense service medal may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, and upon presentation of the required supporting evidence of the award of the national defense service medal, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, the license plates shall be inscribed with the words "national defense" and bear a reproduction of the national defense service ribbon. The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon payment of the regular license tax required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles.

(B) No person who is not a recipient of the national defense service medal shall willfully and falsely represent that the person is a recipient of the national defense service medal for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates issued under this section unless the person is eligible to be issued those license plates.

(C) Sections 4503.77 and 4503.78 of the Revised Code do not apply to license plates issued under this section.

Effective Date: 03-23-2005

4503.543 Armed forces expeditionary service medal license plates.

(A) Any person who has been awarded the armed forces expeditionary medal may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, and upon presentation of the required supporting evidence of the award of the armed forces expeditionary medal, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a

validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, the license plates shall be inscribed with the words "expeditionary service" and bear a reproduction of the armed forces expeditionary service ribbon. The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon payment of the regular license tax required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles.

The registrar shall not issue license plates under this section unless the registrar first receives written permission from the United States department of defense allowing the registrar to place the image of the armed forces expeditionary service ribbon on the license plates.

(B) No person who is not a recipient of the armed forces expeditionary medal shall willfully and falsely represent that the person is a recipient of the armed forces expeditionary medal for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates issued under this section unless the person is eligible to be issued those license plates.

(C) Sections 4503.77 and 4503.78 of the Revised Code do not apply to license plates issued under this section.

Effective Date: 03-23-2005

4503.544 Veterans motorcycle license plates.

(A) Any person who is a retired or honorably discharged veteran of any branch of the armed forces of the United States may apply to the registrar of motor vehicles for the registration of any motorcycle that the person owns or leases. The application shall be accompanied by written evidence that the applicant is a retired or honorably discharged veteran of a branch of the armed forces of the United States that the registrar shall require by rule.

Upon receipt of an application for registration of a motorcycle under this section, presentation of satisfactory evidence documenting that the applicant is a retired or honorably discharged veteran of a branch of the armed forces of the United States, and payment of the regular motorcycle license fee prescribed in section 4503.04 of the Revised Code and any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, the registrar shall issue to the applicant the appropriate motor vehicle registration and a license plate and a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

(B) License plates issued under this section shall be inscribed with the letters and numbers ordinarily inscribed on motorcycle license plates, except that the registrar shall provide for one of the following:

(1) The license plates to contain an inscription or symbol representing veterans of the armed forces of the United States;

(2) The plates to include the word "veteran" or "vet";

(3) The plates to be designed to display a sticker bearing the word "veteran."

(C) Sections 4503.77 and 4503.78 of the Revised Code do not apply to license plates issued under this section.

Effective Date: 03-23-2005

4503.546 Gold Star Family license plates.

(A) Any member of the immediate family of a person who died in a combat zone while a member of any branch of the armed forces of the United States may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, motor home, or other vehicle of a class approved by the registrar that the family member owns or leases and for issuance of "gold star family" license plates for that motor vehicle. The application for "gold star family" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration, a set of "gold star family" license plates with a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, "gold star family" license plates shall be inscribed with a gold star and the words "gold star family." "Gold star family" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Gold star family" license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon submission by the applicant of an application for registration of a motor vehicle under this section, payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C) No person who is not a member of the immediate family of a person who died in a combat zone while a member of any branch of the armed forces of the United States shall willfully and falsely represent that the person is such a family member for the purpose of obtaining license plates under this section.

(D) As used in this section, "member of the immediate family" of a person who died in a combat zone while a member of any branch of the armed forces of the United States means all of the following:

- (1) A spouse;
- (2) A parent, stepparent, or other person who acted in loco parentis;
- (3) A sibling, whether of the whole or half-blood, or by adoption;
- (4) A child, including those by adoption, or a stepchild;
- (5) A grandparent.

Effective Date: 2008 SB25 04-25-2008

4503.571 Purple heart license plates.

Any person who has been awarded the purple heart may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and any required taxes , and upon presentation of the required supporting evidence of the award of the purple heart, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, the license plates shall be inscribed with the words "PURPLE HEART." The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and validation stickers shall be issued without the payment of any registration fee and service fee required by sections 4503.04, 4503.10, and 4503.102 of the Revised Code, and without the payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code. The applicant shall comply with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of seventy-five per cent of the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

Effective Date: 02-12-2001; 09-29-2005; 2007 HB372 03-24-2008

4503.58 Marine corps league license plates.

The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who also is a member in good standing of the marine corps league may apply to the registrar for the registration of the vehicle and issuance of marine corps league license plates. The application for marine corps league license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of the required evidence that the applicant is a member in good standing of the marine corps league, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of marine corps league license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, marine corps league license plates shall be inscribed with identifying words and a symbol or logo designed by the marine corps league and approved by the registrar. Marine corps league license plates shall bear county identification stickers that identify the county of registration by name or number.

Marine corps league license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for marine corps league license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The additional fee of ten dollars shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of marine corps league license plates, and shall be transmitted by the registrar to the treasurer of state for deposit into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Effective Date: 08-21-1997

4503.59 Pearl Harbor license plates.

The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Pearl Harbor license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, Pearl Harbor license plates shall be inscribed with the words "Pearl Harbor" and a symbol or logo designed by the Pearl Harbor survivors association and approved by the registrar. Pearl Harbor license plates shall bear county identification stickers that identify the county of registration by name or number.

Pearl Harbor license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for Pearl Harbor license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

Effective Date: 02-12-2001; 09-29-2005

Title Forty-seven
Occupations – Professions

Chapter 4733 Professional Engineers and Professional Surveyors

4733.11 License qualifications.

(A) The state board of registration for professional engineers and surveyors shall consider an applicant to be qualified for registration as a professional engineer if an applicant satisfies all of the requirements listed in either division (A)(1) or (2) of this section as follows:

(1)(a) Graduation from an accredited engineering curriculum of four years or more;

(b) A specific record of four years or more of practical experience in engineering work completed in addition to, and not overlapping in time, any school work completed under division (A)(1)(a) of this section that is acceptable to the board, not more than two years of which may be before graduation but after the completion of the second year of college, indicating that the applicant is competent to be placed in responsible charge of such work;

(c) Passing the prescribed written or written and oral examinations under divisions (A) and (B) of section 4733.13 of the Revised Code.

(2)(a) Graduation from a college curriculum in engineering of four years or more that is not approved by the engineering accreditation commission of the accreditation board for engineering and technology, or graduation from a college curriculum in engineering technology of four years or more that is accredited by the technical accreditation commission of the accreditation board for engineering and technology;

(b) Eight years or more of practical experience in engineering work completed in addition to, and not overlapping in time, any school work completed under division (A)(2)(a) of this section that is acceptable to the state board of registration for professional engineers and surveyors, not more than two years of which may be before college graduation but after completion of the second year of college, indicating that the applicant is competent to be placed in responsible charge of such work;

(c) Passing the prescribed written or written and oral examinations under divisions (A) and (B) of section 4733.13 of the Revised Code.

(B) The state board of registration for professional engineers and surveyors shall consider an applicant to be qualified for registration as a professional surveyor if the applicant satisfies all of the requirements listed in either division (B)(1) or (2) of this section as follows:

(1)(a) Graduation from an approved curriculum in surveying of four years or more;

(b) A specific record of four years or more of surveying office and field experience completed in addition to, and not overlapping in time, any school work completed under division (B)(1)(a) of this section that is of a character acceptable to the board, at least two years of which shall be after college graduation, with at least two of the four years of work in the surveying of land boundaries under the direct supervision of a professional surveyor, who may indicate in writing that the applicant is competent to be placed in responsible charge of the work;

(c) Passing the prescribed written or written and oral examinations under divisions (A) and (C) of section 4733.13 of the Revised Code.

(2)(a) Graduation from an accredited curriculum in civil engineering of four years or more in a recognized school or college;

(b) Successful completion of at least twenty-four quarter hours, or equivalent semester or trimester hours, of approved surveying courses in surveying and mapping arts and sciences, except that courses successfully completed as prior studies may be credited by the board toward this requirement, of which at least eight quarter hours, or equivalent semester or trimester hours, are in surveying of land boundaries;

(c) A specific record of four years or more of surveying office and field experience completed in addition to, and not overlapping in time, any school work completed under division (B)(2)(a) of this section that is of a character acceptable to the board, at least two years of which shall be after college graduation, with at least two of the four years of work in surveying of land boundaries under the direct supervision of a professional surveyor, who may indicate in writing that the applicant is competent to be placed in responsible charge of the work;

(d) Passing the prescribed written or written and oral examinations under divisions (A) and (C) of section 4733.13 of the Revised Code.

(C) Engineering experience, for a professional engineer's practical experience requirement, or surveying experience, for a professional surveyor's practical experience requirement, in any of the armed forces of the United States or civilian war services may be credited for registration, if the experience is acceptable to the board.

(D) As used in this section, "an approved curriculum in surveying" is one which has been accredited by the related accreditation committee of the accreditation board for engineering and technology or one which has been approved by the state board of registration for professional engineers and surveyors.

(E) No person is eligible for registration as a professional engineer, or professional surveyor, who is not of good character and reputation.

(F) In considering the qualifications of applicants, responsible charge of engineering or surveying teaching may be construed as responsible charge of engineering or surveying work, respectively. No applicant shall receive credit for more than six years of engineering or surveying experience because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer or professional surveyor, or the supervision of the construction of such work as a superintendent is not deemed to be practical experience in engineering or surveying work.

(G) Every person applying for registration as a professional engineer or professional surveyor shall be required to pass the fundamentals examination and the principles and practice examination as provided in section 4733.13 of the Revised Code. In addition to passing each requisite examination, each applicant must submit evidence, satisfactory to the board, that the applicant has completed the practical experience required in this section.

(H) The board shall require the applicant for registration as a professional engineer or professional surveyor to take two examinations. The first examination, known as the fundamentals examination, may be taken by the applicant at any time after the applicant has completed the required education under division (A) or (B) of this section, or, at the discretion of the board, an applicant may be permitted to take the first examination during the applicant's concluding term of an approved curriculum in engineering or surveying of four years or more.

(I) When the applicant has passed the fundamentals examination, the applicant shall be given an appropriate certificate by the board showing the applicant's status as an engineer intern or surveyor intern.

(J) The applicant is not eligible to take the second examination, known as the principles and practice examination, until the applicant has passed the fundamentals examination.

(K) Any person having the necessary qualifications to entitle the person to registration is eligible for registration though the person may not be practicing the person's profession at the time of making application.

Effective Date: 10-29-2003

Title Fifty-nine
Veterans-Military Affairs

Chapter 5901 Veterans' Services

5901.01 Veterans' services definitions.

As used in sections 5901.01 to 5901.37 of the Revised Code:

(A) Except as otherwise provided in division (B) of this section, "veteran" means either of the following:

(1) A former member of the armed forces of the United States who served on active military duty and received an honorable discharge or honorable separation, a member of the armed forces of the United States who died on active military duty, or a member of the armed forces of the United States missing in action more than ninety days;

(2) A member of the United States merchant marine to whom either of the following applies:

(a) The member has an honorable report of separation from the active duty military service, form DD214 or DD215.

(b) The member served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(B) As used in section 5901.08 and other sections of the Revised Code with regard to applications for financial assistance under sections 5901.02 to 5901.15 of the Revised Code, "veteran" means either of the following:

(1) A person who served in the armed forces of the United States on active military duty and was discharged from the service under honorable conditions, and who either served on active duty for reasons other than training or, while serving on active duty for training, incurred a disability recognized by the department of veterans affairs or department of defense as service-connected;

(2) A person who served in the United States merchant marine, who either served on active duty for reasons other than training or, while serving on active duty for training, incurred a disability recognized by the department of veterans affairs or department of defense as service-connected, and to whom either of the following applies:

(a) The person has an honorable report of separation from the active duty military service, form DD214 or DD215.

(b) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(C) "Veterans plot" means a plot of land in any cemetery, set apart to be exclusively used for interring the remains of deceased veterans.

(D) "United States merchant marine" includes the United States army transport service and the United States naval transport service.

Effective Date: 03-17-2000

5901.02 Veterans service commission.

In each county there shall be a commission known as "the veterans service commission." Except as provided in section 5901.021 of the Revised Code, the commission shall be composed of five residents of the county appointed to five-year terms by a judge of the court of common pleas. At the time of appointment or reappointment to the commission, no commission member appointed under this section shall be an employee of the commission or hold an elective or other appointive office of the county served by the commission.

Each member of the commission appointed under this section shall be an honorably discharged or honorably separated veteran. Within sixty days after the date of appointment, each such member shall file the member's form DD214 with the department of veterans services in accordance with guidelines established by the director of that department. Such appointments shall be made from lists of recommended persons, in the manner specified in the following paragraph. One person shall be a representative recommended by the American Legion; one person shall be a representative recommended by the Veterans of Foreign Wars; one person shall be a representative recommended by the Disabled American Veterans; one person shall be a representative recommended by the AMVETS; and one person shall be a representative recommended by the Military Order of the Purple Heart of the U.S.A., the Vietnam Veterans of America, or the Korean War Veterans Association. If any such organization has no post or chapter located in the county, the appointment shall be made from lists of recommended persons submitted by posts or chapters of any other congressionally chartered veterans organizations located in the county. If no such other organizations have posts or chapters located in the county, the judge responsible for making appointments under this section may appoint any qualified veteran to represent the veteran community.

On or before the fifteenth day of October of each year, the appointing judge shall notify each post or chapter of each organization within the county from which the member may or must be appointed that it may submit a list containing three recommendations of persons who are eligible for appointment. If the judge does not receive any recommendations within sixty days after providing the required notification, the judge may appoint any qualified veteran to represent the veteran community. The judge shall make the appointment on or before the fifteenth day of January of each year. Any vacancy in a membership appointed under this section shall be filled in the same manner as the original appointments.

Beginning in the year 2000, appointment of members to the commission under this section shall be made as follows:

(A) Appointments for members to represent the American Legion shall be made for terms to commence in years ending in zero and five.

(B) Appointments for members to represent the Veterans of Foreign Wars shall be made for terms to commence in years ending in one and six.

(C) Appointments for members to represent the Disabled American Veterans shall be made for terms to commence in years ending in two and seven.

(D) Appointments for members to represent the AMVETS shall be made for terms to commence in years ending in three and eight.

(E) Appointments for members to represent the Military Order of the Purple Heart of the U.S.A., the Vietnam Veterans of America, or the Korean War Veterans Association shall be made for terms to commence in years ending in four and nine.

The terms immediately preceding the initial appointments made under divisions (A) to (E) of this section may be for periods of less than five years.

The appointing authority shall remove a member who fails to maintain certification or whose certification is revoked by the director of veterans services.

Effective Date: 09-04-2002; 2008 SB289 08-22-2008

5901.021 Creation of additional memberships.

(A) This section applies only to counties having a population, according to the most recent decennial census, of more than five hundred thousand.

(B)(1) In any county that is described in division (A) of this section and in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds twenty-five-thousandths of one per cent of the assessed value of property in the county or the amount appropriated to the commission from the county general fund in the current fiscal year by more than ten per cent of that appropriation, the board of county commissioners, by resolution, may create not more than six memberships on the veterans service commission in addition to the memberships provided for by section 5901.02 of the Revised Code. The board shall prescribe the number of years the additional memberships shall exist, which shall not exceed five years. Once a board of county commissioners creates any additional memberships, it may not create further additional memberships under this section if the total number of such memberships would exceed six. The board shall appoint persons who are residents of the county and who are honorably discharged or honorably separated veterans to each of the additional memberships, for terms prescribed by the board and commencing on a date fixed by the board. Each person appointed to an additional membership shall file, within sixty days after the date of the appointment, the person's form DD214 with the department of veterans services in accordance with guidelines established by the director of that department.

(2) If the board of county commissioners appoints additional members as described in division (B)(1) of this section, the board may permit the commission to submit an original or revised budget request for the ensuing fiscal year later than the last Monday in May, as otherwise required under section 5901.11 of the Revised Code.

(C) The board of county commissioners may remove, for cause, any member appointed under this section. The board shall determine whether the additional members may be reappointed upon the expiration of their terms, and shall fill any vacancy in an additional membership for the unexpired term in the manner provided for the original appointment.

Effective Date: 09-26-2003; 2008 SB289 08-22-2008

5901.03 Organization and duties of commission.

The veterans service commission shall select one of its members as president, one as vice-president, and one as secretary. The commission shall meet at least once each month. A judge of the court of common pleas may remove, for cause, any member of the commission appointed under section 5901.02 of the Revised Code, and shall fill vacancies occurring among memberships appointed under that section for the unexpired terms in the manner provided for the original appointments.

The commission's duties shall include but are not limited to the following:

(A) Employing such staff as are necessary to carry out the commission's duties, and fixing their compensation;

(B) Establishing policies and procedures for the administration of the commission and the veterans service office;

(C) Establishing policies and procedures for the administration of assistance as provided under this chapter;

(D) Causing the budgets of the veterans service commission and veterans service office to be presented to the board of county commissioners for approval;

(E) Establishing programs of outreach and coordination with other agencies to enhance available services to veterans within the county;

(F) Promoting, monitoring, and providing funding for ongoing education and training for veterans service commissioners and staff;

(G) Making reports to the organizations represented on the commission, as provided in section 5901.02 of the Revised Code, and to others, upon request;

(H) Establishing regularly scheduled transportation for veterans to and from veterans administration medical centers whose districts the county is within, through contractual agreements or through other arrangements determined by the commission to be most cost-effective;

(I) Participating in appropriate memorial and commemorative activities to help promote patriotism and veterans services;

(J) Taking any other actions required by this chapter.

Effective Date: 09-04-2002

5901.04 Payment of expenses and compensation of commissioners.

On the presentation of an itemized statement, the board of county commissioners shall allow the persons composing the veterans service commission their reasonable expenses incurred in the performance of their duties, and shall fix a fair compensation for their services. The county auditor shall issue a warrant upon the county treasurer for the amount so allowed.

Effective Date: 07-22-1994

5901.05 Veterans service committee.

On the first Monday of January in each year, the veterans service commission may appoint for the county a veterans service committee, consisting of at least three persons

who are residents of the county, whose duties shall be set forth by the commission. Such persons shall be veterans, one of whom shall be designated as chairperson of the county veterans service committee. The commission shall fill all vacancies that occur in any such committee, and may remove any member of a committee for cause.

Effective Date: 07-22-1994

5901.06 Commission to employ executive director, investigators and clerks.

The veterans service commission may employ an executive director, who shall be a veteran and shall be employed in the unclassified service, and such investigators and clerks as are necessary to perform the duties of the commission. Each investigator and clerk shall be a veteran or, if a qualified veteran is not available, the spouse, surviving spouse, child, or parent of a veteran. Each shall be employed in the classified service and is exempt from civil service examination. The compensation of such investigators and clerks shall be established by the commission, and shall be paid from the county allotment of veterans service funds.

Effective Date: 07-22-1994

5901.07 County veterans service officers and assistants.

The veterans service commission shall employ one or more county veterans service officers, one of whom may act as executive director. Each service officer shall be a veteran. Within sixty days after the date of initial employment, each service officer shall file a copy of the officer's form DD214 with the department of veterans services in accordance with guidelines established by the director of that department. Each service officer shall be employed in the classified service and is exempt from civil service examination. The commission may remove a veterans service officer who fails to maintain accreditation or whose certification is revoked by the director of veterans services. The service officers shall advise and assist present and former members of the armed forces of the United States, veterans, and their spouses, surviving spouses, children, parents, and dependents in presenting claims or obtaining rights or benefits under any law of the United States or of this state.

The commission shall employ each service officer on a part- or full-time basis and fix the officer's compensation. No county commissioner or member of the veterans service commission shall be employed as a service officer.

The commission shall employ the necessary clerks, stenographers, and other personnel to assist the service officers in the performance of duties and shall fix their compensation. Each of these employees shall be a veteran or, if a qualified veteran is not available, the spouse, surviving spouse, child, or parent of a veteran. Each of these employees shall be employed in the classified service and is exempt from civil service examination.

The board of county commissioners, upon the recommendation or approval of the veterans service commission, may provide suitable office space, supplies, and office and incidental expenses for each service officer. The compensation of each service officer and of any employee and any expenses incurred under this section shall be paid out of funds appropriated to the commission, as provided in section 5901.11 of the Revised Code.

Effective Date: 06-15-2000; 2008 SB289 08-22-2008

5901.08 Applicants for financial assistance.

Each applicant for financial assistance under sections 5901.02 to 5901.15 of the Revised Code shall be a veteran, an active-duty member of the armed forces of the United States, or the spouse, surviving spouse, dependent parent, minor child, or ward of a veteran or active-duty member of the armed forces of the United States, who has been a bona fide resident of the county in which application is being made for at least three months.

Effective Date: 07-22-1994

5901.09 Statement of household income and property.

(A) Each applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code shall provide the veterans service commission with a statement concerning the applicant's household income and the amount of real and personal taxable property, stocks, bonds, moneys on hand loaned or deposited in any bank or elsewhere, shares in building associations, mortgages, notes, or other articles of value from which the applicant derives an income or revenue. The statement shall be made upon blanks furnished by the commission and shall be subscribed by the applicant.

Statements provided under this division shall not include medical records and, pursuant to division (B) of this section, are not public records under section 149.43 of the Revised Code. Veterans service commissions may compile statistical data from the statements in a manner to be prescribed by the department of veterans services. These data shall be considered a matter of public record.

(B) The following are not public records under section 149.43 of the Revised Code:

(1) A statement described in division (A) of this section;

(2) Any application for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(3) Any documents that accompany and pertain to a statement described in division (A) of this section or an application described in division (B)(2) of this section;

(4) Any other documents that are used by or are in the possession of a veterans service commission that may affect the determination of the eligibility of an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code or that may affect the determination of an increase, decrease, or discontinuance of an allowance under section 5901.14 of the Revised Code, if those documents are required to be kept confidential under any statute of this state or the United States;

(5) Any applications to obtain benefits under any law of the United States or of this state, and any documents accompanying those applications, in the possession of a veterans service commission and filed by persons in the armed forces of the United States, veterans, or the spouses, surviving spouses, children, parents, or dependents of veterans.

(C) Interviews of applicants for financial assistance under sections 5901.01 to 5901.15 of the Revised Code, discussions of the applications, statements, and other documents described in division (B) of this section, and reviews of matters relating to applicants' requests for financial assistance under sections 5901.01 to 5901.15 of the Revised Code shall be kept confidential. In accordance with division (J) of section 121.22 of the Revised Code, a veterans service commission shall conduct a meeting of the commission or a portion of a meeting of the commission to interview an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code, to discuss an application, statement, or other document described in division (B) of this section, or to review

matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code in an executive session.

(D) Except as otherwise provided in division (E) of this section or division (B) of section 5902.04 of the Revised Code, a veterans service commission shall ensure that the applications, statements, and other documents described in division (B) of this section are not used for any purpose other than to determine the eligibility of the applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code or to determine whether to increase, decrease, or discontinue an allowance under section 5901.14 of the Revised Code.

(E)(1) An applicant for, or a recipient or former recipient of, financial assistance under sections 5901.01 to 5901.15 of the Revised Code may consent to the release by a veterans service commission of any information in an application, statement, or other document described in division (B) of this section that pertains to the applicant, recipient, or former recipient by completing and signing a release of information form. The form shall be prescribed by the department of veterans services. An applicant for, or a recipient or former recipient of, financial assistance shall sign a separate release of information form each time the applicant, recipient, or former recipient consents to the release of any specific information in the application, statement, or other document involved. A copy of each signed release of information form shall be kept in the file of the applicant, recipient, or former recipient kept by the commission. The release of information form shall specify the following items:

- (a) The individual, agency, or organization requesting the information;
- (b) The specific information requested;
- (c) The intended use of the information requested;
- (d) The date of the request for the information;
- (e) The signature of the person who consents to the release of the information.

(2) A law enforcement officer may obtain an application, statement, or document as described in division (B) of this section pursuant to an investigation by a law enforcement authority, upon the issuance of a court order established upon reasonable grounds that the information contained in the application, statement, or document is relevant to a suspected violation of law.

(3)(a) A party to a matter pending before a court may obtain an application, statement, or document as described in division (B) of this section, if upon application to a court of competent jurisdiction, the party proves all of the following:

- (i) The information contained in the application, statement, or document is relevant and material to the matter before the court.
- (ii) Disclosure of the application, statement, or document serves the interests of justice, because the need of the party requesting the information within the application, statement, or document outweighs the privacy interest of the applicant, recipient, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code.
- (iii) No other reasonable mean exists to obtain the information contained in the application, statement, or document.

(b) If the party to a matter pending before a court proves all of the elements in division (E)(3)(a) of this section, the court may order the disclosure of an application, statement, or document described in division (B) of this section. For purposes of this division the court shall do all of the following:

(i) Indicate the specific application, statement, or document to be disclosed;

(ii) Indicate the purpose for the disclosure of the application, statement, or document;

(iii) Indicate the person to whom the application, statement, or document will be disclosed.

Effective Date: 11-09-1995; 2008 SB289 08-22-2008

5901.11 Determination of probable amount of funds needed.

On or before the last Monday in May in each year, the veterans service commission shall meet and determine in an itemized manner the probable amount necessary for the aid and financial assistance of persons entitled to such aid and assistance and for the operation of the veterans service office for the ensuing year. After determining the probable amount necessary for such purposes, the commission shall prepare and submit a budget in the manner specified in division (C) of section 5705.28 of the Revised Code to the board of county commissioners which may review the proposed budget and shall appropriate funds to the commission pursuant to Title III, section 5705.05, and sections 5705.38 to 5705.41 of the Revised Code. The board, at its June session, shall make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county, to raise the amount that the board approves. The veterans service commission may, prior to the first day of October in any year, submit to the board of county commissioners a written request for a hearing before the board to discuss the commission's budget request for the ensuing fiscal year. Upon receiving this request, the board shall provide for such a hearing at a regular or special meeting of the board to be held no later than fourteen days prior to the board's adoption of a permanent appropriation measure under section 5705.38 of the Revised Code.

Effective Date: 07-22-1994

5901.14 Warrant for allowance.

To each person certified by the veterans service commission to the county auditor, the auditor shall issue a warrant upon the county treasurer for the allowance awarded to that person by the commission. Upon proper cause shown, the commission may appoint a suitable person to draw, receipt for, and properly expend the allowance made to any person under sections 5901.02 to 5901.15 of the Revised Code, after the voucher or certificate is endorsed by the person for whom the allowance is intended, for the benefit of the person and the indigent members of his family. No part of the allowance shall be paid to any person without such endorsement. The commission, at any meeting, may increase, decrease, or discontinue any allowance previously awarded, which action shall be certified to the auditor, who shall amend his list of recipients accordingly.

Effective Date: 07-22-1994

5901.15 Immediate assistance - veterans service commission unclaimed assistance fund.

The veterans service commission shall adopt and implement rules to grant immediate assistance, financial or otherwise, to any person entitled to it under sections 5901.02 to 5901.14 of the Revised Code, and to any member, spouse, or dependent of any member of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or a reserve component of the armed forces of the United States serving active military duty because of an executive order issued by the president of the United States or an act of congress, until the benefits or pay and allowances to which the member, spouse, or dependent is entitled from the armed forces are available, under such rules as the commission designates. If any money so awarded as financial assistance is not called for by the applicant within sixty days after it is awarded, such amounts shall be paid into the county treasury to the veterans service commission unclaimed assistance fund, which is hereby created.

Effective Date: 07-22-1994

5901.16 Application or petition for veterans plot in cemetery.

Upon application in writing by a veterans organization in any municipal corporation or township, or upon a petition in writing by five or more veterans in any municipal corporation or township where no veterans organization exists, the veterans service commission of any county shall purchase or provide a veterans plot in any cemetery in such county or municipal corporation where no burial plot is provided, for the burial, removal, and reinterment of the bodies of neglected and indigent veterans.

The expense of such purchase shall be filed with and audited by the county auditor, who shall issue a warrant for it upon the county treasurer, who shall pay such warrant from the general fund of the county.

Effective Date: 09-14-1988

5901.17 Expense for care of graves.

On and after the interment of the remains of one or more deceased veterans in a veterans plot, the reasonable expenses of the care of the grave shall be annually provided for by the municipal corporation or township in which the remains are buried, and shall be paid annually to the cemetery association in which the remains may be interred, removed, or reinterred.

Effective Date: 07-22-1994

5901.18 Petition for burial or removal and reinterment.

A petition may be presented to the county veterans service commission signed by the officers of a local or state veterans organization, or by a majority of a memorial committee of any municipal corporation in which one or more such organizations exist, or by veterans in townships or villages in which no veterans organization exists. Such petition shall contain:

(A) The name of the deceased veteran or veterans whose remains are sought to be buried or removed, and, if known, the company and regiment in which each served;

(B) The name and location of the cemetery in which each is interred, and from which removal is asked to be made;

(C) The name and location of the cemetery to which the remains are desired to be removed and reinterred;

(D) The facts showing the reason for such removal.

Effective Date: 07-22-1994

5901.19 Order to maintain dignified burial site or for removal and reinterment - maximum expense to be specified.

Within thirty days after the next succeeding regular meeting, the veterans service commission shall act upon any petition presented as provided by section 5901.18 of the Revised Code, and, if true, it shall issue an order to maintain a dignified burial site with the agreement of the petitioners, or direct the removal of the remains of the deceased veteran or veterans to the cemetery designated in the petition, within the municipal corporation or township, in which the remains are then to be buried, and the commission shall specify in the order the maximum expense of the proposed removal and reinterment, including the expense incurred by the commission. The order shall designate the persons who shall have charge of the burial or removal and reinterment.

Effective Date: 07-22-1994

5901.20 Verified statement of burial or removal.

Upon the completion of the burial or removal and reinterment of a deceased veteran, the persons having charge thereof shall make an itemized statement, and shall verify and file such statement with the veterans service commission, which shall, at the next regular meeting, act upon such expense account and file it with the county auditor forthwith, at which time it shall become a charge upon the county in which the interment or reinterment is made.

Such expense shall be audited and the auditor shall issue a warrant for it on the county treasurer, who shall pay such warrant out of the general fund of the county.

Effective Date: 09-14-1988

5901.21 Purchase of additional plots.

If it becomes necessary to purchase additional plots of ground in any cemetery in which a veterans plot has been filled with graves to its capacity, sections 5901.16 to 5901.24 of the Revised Code do not prevent the purchase of such additional plots.

Effective Date: 09-14-1988

5901.22 Contracts with cemetery associations for purchase and maintenance of plots.

The board of county commissioners, the board of township trustees, or the legislative authority of a municipal corporation may enter into contracts with cemetery associations providing for the purchase and maintenance, in cemeteries within the county, of plots of ground for the burial of deceased veterans and the deceased spouses of veterans. Any such purchase may be made either by cash or by installment payments. The purchase price and maintenance cost of all such burial plots shall be paid from the treasury of the county, township, or municipal corporation contracting for such plots.

Effective Date: 07-22-1994

5901.23 Plots open for burial on application.

Any veterans plot owned or maintained by any county, township, or municipal corporation shall be open for the burial of the body of any deceased veteran on application by a relative of the decedent or other proper person responsible for the disposition of the remains to the county, township, or municipal corporation owning or maintaining the plot.

Effective Date: 07-22-1994

5901.24 Burial in cemetery not provided with plot.

If it is desired to bury the body or cremated remains of any deceased veteran in any cemetery not having a burial plot as provided by section 5901.22 of the Revised Code, the board of county commissioners, any board of township trustees, or the legislative authority of any municipal corporation in the county in which the cemetery is situated may purchase a space for the grave of the veteran or the veteran's cremated remains, provide for the care of the plot, and pay the amount of the purchase price and maintenance cost from the funds in the treasury of the county, township, or municipal corporation.

Effective Date: 08-05-1998

5901.25 Commission to contract for burial of indigent veteran, parent, spouse or surviving spouse of veteran.

The board of county commissioners shall require the veterans service commission, upon application and with the approval of the family or friends of the deceased, to contract, at a fair and reasonable price, with the funeral director selected by the family or friends, and cause to be interred or cremated in a decent and respectable manner the body of any veteran, or the parent, spouse, or surviving spouse of any such veteran, who dies without the means to defray the necessary funeral or cremation expenses. Such a burial may be made in any cemetery or burial ground within the state, other than those used exclusively for the burial of paupers and criminals.

Effective Date: 08-05-1998

5901.26 Duties of commission as to burial of indigent.

Pursuant to section 5901.25 of the Revised Code, the veterans service commission shall use the forms of contracts prescribed by sections 5901.25 to 5901.32 of the Revised Code, and abide by the regulations provided by such sections. The commission shall see that funeral directors furnish all items specified in the contract, that when the benefits of such sections are claimed the entire amount to be contributed by the county toward the cost of the burial or cremation shall not exceed the sum of one thousand dollars, and that any remaining costs are paid by the family or friends of the deceased.

Effective Date: 08-05-1998

5901.27 Commission to determine indigency - report to county commissioners.

Before assuming the charge and expense of any burial or cremation, the veterans service commission, pursuant to section 5901.25 of the Revised Code, shall satisfy itself, beyond a reasonable doubt, by careful inquiry, that the family of the deceased is unable, for want of means, to defray the expenses of the burial or cremation, or that the family may be deprived of means actually necessary for its immediate support. Thereupon the commission shall cause the deceased to be buried or cremated and make a report thereof

to the board of county commissioners. The report shall set forth that the commission found the family of the deceased person in indigent circumstances and unable to pay the expenses of burial or cremation. The report shall also set forth the name of the deceased, the rank and command to which the deceased belonged if a veteran, the date of death, the place of burial or disposition made of the person's cremated remains, the occupation while living, and an accurate itemized statement of the expenses incurred by reason of the burial or cremation.

Effective Date: 08-05-1998

5901.28 Death of inmate of home.

Upon the death of an inmate of any home for indigent parents, spouses, or surviving spouses of veterans, the manager of the home may, upon a certificate signed by the attending physician of the home, certify as to the death of the inmate to the board of county commissioners of the county from which the parent, spouse, or surviving spouse was admitted to the home, and the board shall proceed as provided in section 5901.32 of the Revised Code.

Effective Date: 07-22-1994

5901.29 Funeral directors' blanks.

The funeral director employed to perform the service described by section 5901.25 of the Revised Code shall use the blanks provided by this section, specifying what the funeral director is to furnish for the service. The contract shall be signed by the funeral director and a copy thereof left with the veterans service commission with which it is made. Such contract shall read as follows:

"I, funeral director, residing at hereby agree to furnish the following items for the burial or cremation (circle one) of, who resided at, and died,, which shall consist of:

- (A) One casket, nicely covered with a good quality of black cloth, lined with a good quality of white satin or other material, and trimmed on the outside with handles of a fair quality in keeping with the casket;
- (B) One burial robe of a good quality of material;
- (C) One plain box appropriate for receiving the coffin or urn containing cremated remains inside the grave;
- (D) Payment for digging the grave, in the place designated by the friends of the deceased or as otherwise provided, and for filling the grave in a proper manner;
- (E) Furnishing a funeral car for conveying the remains to the place of burial or crematory;
- (F) Preparing the body for burial when so requested;
- (G) Furnishing necessary transportation for the use of the family, friends, and pallbearers, which people shall be returned to their respective homes or to the place where the funeral services were held;
- (H) Furnishing a decent, respectable funeral, for the sum of dollars."

Effective Date: 05-09-2000

5901.30 Presentation of itemized bill and contract to county auditor.

The funeral director shall present the itemized bill and contract, as approved by the veterans service commission, to the county auditor, upon printed blanks furnished by the auditor, and make an oath that the funeral director has honestly and faithfully performed the contract, that the bill and contract attached is a true copy of the one left with the parties who engaged the funeral director's services, and that the bill covers the entire expense of the service described by section 5901.25 of the Revised Code, in order to obtain the auditor's warrant. The auditor shall have the necessary blanks printed and distribute them to the veterans service commission, from whom they may be procured by funeral directors.

Effective Date: 08-05-1998

5901.31 Savings on expenses to remain in county general fund - delay where additional funds coming to family.

If a saving of money is effected by reason of the loan of automobiles, ownership of a cemetery lot, or other items mentioned in the bill of expenses under section 5901.30 of the Revised Code, the amount of such saving shall remain in the general fund of the county. If it appears that life insurance or any additional funds are coming to the family of the deceased, the veterans service commission shall withhold its signature to the itemized bill and contract until such matters are definitely settled.

Effective Date: 07-22-1994

5901.32 Record - expenses - headstone.

Upon securing the report and statement of expenses as provided by section 5901.27 of the Revised Code, the board of county commissioners shall transcribe in a book to be kept for that purpose, all the facts contained in the report concerning a deceased veteran, and shall certify the expenses thus incurred to the county auditor, who shall draw a warrant for those expenses upon the county treasurer, to be paid from the county fund to such persons as are designated by the board. Upon the death of any indigent veteran residing within the county at the time of death and the burial of the indigent veteran or the indigent veteran's cremated remains, the board shall make application to the proper authorities, under the United States government, for a suitable headstone, as provided by act of congress, and shall cause it to be placed at the grave of the deceased veteran or the deceased veteran's cremated remains.

Effective Date: 08-05-1998

5901.34 Permanent markers and temporary memorial day markers for graves of veterans.

The board of county commissioners shall, upon the petition of any five veterans of any township or municipal corporation in its county, procure for and furnish to the petitioners a suitable and durable marker for the grave of each veteran buried in the limits of the township or municipal corporation. The name of the veteran and the company, regiment, or other command in which he served may be inscribed upon the marker. The marker shall be placed on the grave by the petitioners for the purpose of permanently marking and designating the grave for memorial purposes. The board may also provide a temporary memorial day marker for each veteran's grave within the limits of the county,

upon the petition of any memorial day association or veterans organization having charge of memorial day ceremonies conducted within the cemetery where veterans are buried. The board shall provide for the payment of the necessary expense of placing and setting such permanent and temporary markers.

The petitioners shall state in their petition the names of veterans buried and the number of such graves in their township or municipal corporation at the time of petitioning, and shall describe the form and character of the markers which they desire to have placed at such graves.

Effective Date: 07-22-1994

5901.35 Care of graves of veterans.

The board of county commissioners shall provide for the proper care of the graves of all veterans, and of confederate soldiers, sailors, and marines who are buried in lots used exclusively for the benefit of veterans and confederate soldiers, sailors, and marines in cemeteries or burying grounds.

Effective Date: 09-14-1988

5901.36 County or municipal corporation may provide land for veterans' facilities.

For the purpose of enabling counties or municipal corporations to aid and facilitate the construction of veterans' facilities operated by the United States department of veterans affairs as a public works project of the government of the United States, the board of county commissioners of any county or the legislative authority of any municipal corporation may acquire lands by purchase or deed of gift for the purpose of providing a suitable site and grounds in such county for veterans' facilities to be constructed, maintained, and operated by the United States, and may grant the ownership or use and occupation of such lands to the United States for such purpose.

Payment for lands so purchased shall be made from the general fund of the county.

Effective Date: 07-22-1994

5901.37 Care of portion of cemetery set apart for burial of veterans.

In any county having a cemetery or part of it set apart for the burial of veterans, or containing a monument erected to their memory, or containing monuments and memorials erected by private or public expense to the memory of veterans, the board of county commissioners shall care for and properly preserve that portion of the cemetery so set apart for the burial of such veterans, and shall care for and properly preserve the monuments or memorials, and the board shall pay all expenses incident to such care and preservation from the general fund of the county.

Effective Date: 09-14-1988

5901.99 Misrepresentation of veteran status.

(A) No person who is not a veteran, an active-duty member of the armed forces of the United States, or the spouse, surviving spouse, dependent parent, minor child, or ward of a veteran or an active-duty member of the armed forces of the United States shall knowingly represent that the person is a veteran, an active-duty member of the armed

forces of the United States, or the spouse, surviving spouse, dependent parent, minor child, or ward of a veteran or an active-duty member of the armed forces of the United States and is eligible for any benefits or financial assistance related to veteran status for the purpose of receiving such benefits or financial assistance.

(B) Whoever violates this section is guilty of misrepresentation of veteran status, a misdemeanor of the first degree.

Effective Date: 06-15-2000

Chapter 5902 Governor's office of veterans affairs

5902.01 Appointment of director - employment of personnel.

The person appointed to the position of director of veterans services shall be an honorably discharged or honorably separated veteran of the United States armed forces. The department of veterans services shall employ administrative and technical personnel as are necessary to perform the general and specific duties of the department. For positions within the department, the director shall adopt rules under Chapter 119. of the Revised Code establishing a program, which the director shall implement, giving hiring preferences to veterans.

Effective Date: 06-30-1997; 2008 SB289 08-22-2008

5902.02 Duties of the director of the governor's office of veterans affairs.

The duties of the director of veterans services shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Adopting rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers , pertaining to their required duties, and pertaining to revocation of the certification of county veterans service officers;

(D) Adopting rules pursuant to Chapter 119. of the Revised Code for the education, training, certification, and duties of veterans service commissioners and for the revocation of the certification of a veterans service commissioner;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, individually or jointly, that provide services to veterans, including the veterans' homes operated under Chapter 5907. of the Revised Code and the director of job and family

services, to address homelessness, indigency, employment, and other veteran-related issues;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing annually, promulgating change notices for, and distributing a listing of county veterans service officers, county veterans service commissioners, state directors of veterans affairs, and national and state service officers of accredited veterans organizations and their state headquarters. The listing shall include the expiration dates of commission members' terms of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service officers and state directors of veterans affairs; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans service organizations.

(J) Publishing, by the first day of April of each odd-numbered year, a directory of the laws of this state dealing with veterans, as enacted through the conclusion of the previous session of the general assembly, and distributing the publication to each county veterans service office and the state headquarters of each congressionally chartered veterans organization in the state;

(K) Establishing a veterans advisory committee to advise and assist the department of veterans services in its duties. Members shall include a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, a representative of the advisory committee on women veterans, a representative of a labor organization, and a representative of the office of the attorney general. The department of veterans services shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(L) Adopting, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines that the veterans service commissions shall adhere to in the development and implementation of rules, policies, procedures, and guidelines for the administration of Chapter 5901. of the Revised Code. The department of veterans services shall adopt no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of veterans services may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines of the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(M) Receiving copies of form DD214 filed in accordance with the director's guidelines adopted under division (L) of this section from members of veterans service commissions appointed under section 5901.02 and from county veterans service officers employed under section 5901.07 of the Revised Code;

(N) Developing and maintaining and improving a resource, such as a telephone answering point or a web site, by means of which veterans and their dependents, through a single portal, can access multiple sources of information and interaction with regard to the rights of, and the benefits available to, veterans and their dependents. The director of

veterans services may enter into agreements with state and federal agencies, with agencies of political subdivisions, with state and local instrumentalities, and with private entities as necessary to make the resource as complete as is possible.

(O) Planning, organizing, advertising, and conducting outreach efforts, such as conferences and fairs, at which veterans and their dependents may meet, learn about the organization and operation of the department of veterans services and of veterans service commissions, and obtain information about the rights of, and the benefits and services available to, veterans and their dependents;

(P) Advertising, in print, on radio and television, and otherwise, the rights of, and the benefits and services available to, veterans and their dependents;

(Q) Developing and advocating improved benefits and services for, and improved delivery of benefits and services to, veterans and their dependents;

(R) Searching for, identifying, and reviewing statutory and administrative policies that relate to veterans and their dependents and reporting to the general assembly statutory and administrative policies that should be consolidated in whole or in part within the organization of the department of veterans services to unify funding, delivery, and accounting of statutory and administrative policy expressions that relate particularly to veterans and their dependents;

(S) Encouraging veterans service commissions to innovate and otherwise to improve efficiency in delivering benefits and services to veterans and their dependents and to report successful innovations and efficiencies to the director of veterans services;

(T) Publishing and encouraging adoption of successful innovations and efficiencies veterans service commissions have achieved in delivering benefits and services to veterans and their dependents;

(U) Establishing advisory committees, in addition to the veterans advisory committee established under division (K) of this section, on veterans issues;

(V) Developing and maintaining a relationship with the United States department of veterans affairs, seeking optimal federal benefits and services for Ohio veterans and their dependents, and encouraging veterans service commissions to maximize the federal benefits and services to which veterans and their dependents are entitled;

(W) Developing and maintaining relationships with the several veterans organizations, encouraging the organizations in their efforts at assisting veterans and their dependents, and advocating for adequate state subsidization of the organizations;

(X) Requiring the several veterans organizations that receive funding from the state annually to report to the director of veterans services and prescribing the form and content of the report;

(Y) Investigating complaints against county veterans services commissioners and county veterans service officers if the director reasonably believes the investigation to be appropriate and necessary;

(Z) Taking any other actions required by this chapter.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5902.03 Duplicating certificates of discharge and separation.

The director of veterans services may microfilm or otherwise duplicate all or any part of copies of original certificates of discharge and separation submitted by Ohio veterans.

The director may prepare and maintain files of such microfilmed certificates of discharge and separation in such manner that they may readily be available for the use of the department of veterans services, authorized veterans service officers of the several congressionally chartered veterans organizations, and county veterans service officers of the several counties of the state in support of applications for compensation, pension, medical, or domiciliary care, or other state and federal benefits provided for eligible veterans or their dependents or survivors.

The director may make copies of such microfilmed certificates of discharge and separation for storage under secure conditions to assure their preservation, and for supply to qualified veterans or their dependents or survivors or to interested and authorized veterans organizations to aid such organizations in their programs of veterans aid and assistance.

Effective Date: 07-22-1994; 2008 SB289 08-22-2008

5902.04 Director to furnish information and advice to veterans.

(A) Upon application, the director of veterans services shall furnish necessary instructions and advice to the veterans of the state, their heirs, or their legal representatives, respecting their claims against the United States or the state for pensions, bounty, bonus, back pay, or otherwise, by reason of military service.

(B) The director or the director's representative may examine the files of any veterans service commission that pertain to either of the following classes of persons to determine the custody, use, or confidentiality of any documents in those files:

(1) Applicants for, or recipients or former recipients of, financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(2) Applicants for federal, state, or county benefits under those sections.

(C)(1) No information or documents obtained by examinations conducted under division (B) of this section shall be considered part of the public records of the department of veterans services. The director may disclose information or documents that the director obtains pursuant to an examination conducted under division (B) of this section and that personally identify an applicant, recipient, or former recipient described in that division, if either of the following applies:

(a) The director considers the disclosure necessary to enforce compliance with Chapter 5901. of the Revised Code.

(b) For the purposes and under the circumstances authorized under division (E) of section 5901.09 of the Revised Code.

(2) In all other cases, the director shall maintain the confidentiality of information or documents that the director obtains pursuant to an examination under division (B) of this section and that personally identify an applicant, recipient, or former recipient described in that division.

Effective Date: 11-09-1995; 2008 SB289 08-22-2008

5902.06 Director shall keep claims register.

The director of veterans services shall keep a register showing the situation and disposition of any claim filed by the department of veterans services.

Effective Date: 07-22-1994; 2008 SB289 08-22-2008

5902.07 Director may administrator oaths - seal.

The director of veterans services may administer oaths. The director's official certificate shall be received in evidence without further authentication.

Effective Date: 07-22-1994; 2008 SB289 08-22-2008

5902.08 Prohibition.

The director of veterans services, or any employee thereof, shall not receive directly or indirectly a fee or reward of any kind from a claimant or other person for services rendered or to be rendered, relating to a duty required of the director or employee under sections 5902.01 to 5902.07 of the Revised Code, or in any manner connected therewith.

Effective Date: 07-22-1994; 2008 SB289 08-22-2008

5902.09 Agencies to inquire concerning veteran status and benefits.

The person in charge of a state agency or instrumentality, an agency or instrumentality of a political subdivision, or a private entity, such as a nursing home, that provides law enforcement, health, or welfare services to individuals, other than the Ohio veterans' home and veterans service organizations, shall ask an individual with whom the agency, instrumentality, or entity interacts if the individual is a veteran or is or was the dependent of a veteran. If the individual claims to be such an individual, the person in charge shall report the individual's name, address, telephone number, and e-mail address; the agency's, instrumentality's, or entity's name, address, telephone number, and e-mail address; the nature of the agency's, instrumentality's, or entity's interaction with the individual; and the date on which the interaction occurred to the director of veterans services. The director shall inform the veterans service commission having jurisdiction about the veteran or dependent and the interaction. The commission shall inquire about, and offer benefits and services appropriate to, the veteran or dependent.

Effective Date: 2008 SB289 08-22-2008

5902.15 Military activation task force - powers and duties.

(A) If the president of the United States indicates that national guard or reserve forces with headquarters in this state may be called to active military duty, the governor or the director of veterans services shall convene, not later than ten days after all its members are appointed, a military activation task force to determine whether federal, state, and county agencies have prepared proper support mechanisms for that military activation. The task force shall prepare and publish a report stating whether these mechanisms have been prepared and what further actions need to be taken to support that military activation.

(B) The members of the task force are the chairpersons and ranking minority members of the committees of the house of representatives and senate that customarily consider bills

dealing with the military and veterans affairs, and a representative of each of the following agencies and organizations whom that agency or organization shall appoint:

- (1) The Ohio army national guard;
- (2) The Ohio air national guard;
- (3) The United States army reserve;
- (4) The United States marine corps reserve;
- (5) The United States naval reserve;
- (6) The United States air force reserve;
- (7) The United States coast guard reserve;
- (8) The United States department of veterans affairs;
- (9) The American Legion, department of Ohio;
- (10) The Veterans of Foreign Wars, department of Ohio;
- (11) The AMVETS, department of Ohio;
- (12) The Disabled American Veterans, department of Ohio;
- (13) The American Ex-Prisoners of War, department of Ohio;
- (14) The Vietnam Veterans of America, department of Ohio;
- (15) The office of the Ohio attorney general;
- (16) The Ohio association of county veterans service officers;
- (17) The Ohio association of county veterans service commissioners;
- (18) The department of administrative services;
- (19) The state department of job and family services;
- (20) The Ohio office of the United States department of labor;
- (21) The employer support of the national guard and reserve;
- (22) The Ohio military family support group;
- (23) The national league of families of prisoners and missing in action;
- (24) The department of veterans services.

(C) At its first meeting, the task force shall elect a chairperson and other officers it considers necessary.

(D) Members of the task force shall receive no compensation but shall be reimbursed for expenses they incur in the performance of their duties.

(E) Members of the task force shall serve until the task force publishes its report. Any vacancy on the task force shall be filled in the same manner as the original appointment.

(F) The department of veterans services shall provide the task force with necessary personnel, supplies, and services.

Effective Date: 06-15-2000

5902.99 Penalty.

Whoever violates section 5902.08 of the Revised Code shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

Effective Date: 07-22-1994; 2008 SB289 08-22-2008

Chapter 5903 Veterans' rights

5903.02 Reinstatement and reemployment rights.

(A) As used in this section, "uniformed services" and "service in the uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303.

(B) Any person whose absence from a position of employment is necessitated by reason of service in the uniformed services or in the Ohio organized militia has the same reinstatement and reemployment rights in this state that a person has under the "Uniformed Services Employment and Reemployment Rights Act of 1994." A person who is denied a reinstatement or reemployment right pursuant to this section has a cause of action for the same remedies as a person has under the "Uniformed Services Employment and Reemployment Rights Act of 1994." The court of common pleas, notwithstanding any sum limitation established by decision of a board of county commissioners pursuant to section 2305.01 of the Revised Code, shall have exclusive original jurisdiction for such actions, unless the defendant is the state, in which case the court of claims shall have exclusive original jurisdiction pursuant to division (C) of this section.

(C) A person who seeks reinstatement or reemployment rights with the state, pursuant to this section, may bring an action in the court of claims pursuant to this section or section 4323 of the "Uniformed Services Employment and Reemployment Rights Act of 1994."

(D) In any action or proceeding to enforce a provision of this section, the court shall require the defendant to pay the court costs if the plaintiff is the prevailing party in the action or proceeding. If the plaintiff is not the prevailing party, the court may use its discretion in allocating court costs among the parties to the action.

(E) In any action or proceeding to enforce a provision of this section the court may award to a plaintiff who prevails in such action or proceeding reasonable attorney's fees, expert witness fees, and other litigation expenses. If the plaintiff does not receive a favorable judgment from the court in that action, the court shall not require the plaintiff to reimburse the state or the defendant for attorney's fees.

(F) The director of administrative services shall adopt rules in accordance with Chapter 119. of the Revised Code for the implementation of this chapter with respect to persons in public service.

Effective Date: 09-18-1997; 2008 SB289 08-22-2008

5903.10 Renewal of license or certificate.

Any holder of an expired license or certificate from this state or any political subdivision or agency of the state to practice a trade or profession, whose license or certificate was not renewed because of the holder's service in the armed forces of the United States, or in the national guard or in a reserve component, shall, upon presentation of satisfactory evidence of honorable discharge or separation under honorable conditions therefrom within six months of such discharge or separation, be granted a renewal of said license or certificate by the issuing board or authority at the usual cost without penalty and without re-examination if not otherwise disqualified because of mental or physical disability.

Effective Date: 11-21-1967; 2007 HB372 03-24-2008

5903.11 Veteran priority system to provide maximum employment and training opportunities to veterans.

(A) Any federally funded employment and training program administered by any state agency including, but not limited to, the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501, shall include a veteran priority system to provide maximum employment and training opportunities to veterans and other eligible persons within each targeted group as established by federal law and state and federal policy in the service area. Disabled veterans, veterans of the Vietnam era, other veterans, and other eligible persons shall receive preference over nonveterans within each targeted group in the provision of employment and training services available through these programs as required by this section.

(B) Each state agency shall refer qualified applicants to job openings and training opportunities in programs described in division (A) of this section in the following order of priority:

- (1) Special disabled veterans;
- (2) Veterans of the Vietnam era;
- (3) Disabled veterans;
- (4) All other veterans;
- (5) Other eligible persons;
- (6) Nonveterans.

(C) Each state agency providing employment and training services to veterans and other eligible persons under programs described in division (A) of this section shall submit an annual written report to the speaker of the house of representatives and the president of the senate on the services that it provides to veterans and other eligible persons. Each such agency shall report separately on all entitlement programs, employment or training programs, and any other programs that it provides to each class of persons described in divisions (B)(1) to (6) of this section. Each such agency shall also report on action taken to ensure compliance with statutory requirements. Compliance and reporting procedures shall be in accordance with the reporting procedures then in effect for all employment and training programs described in division (A) of this section, with the addition of veterans as a separate reporting module.

(D) All state agencies that administer federally funded employment and training programs described in division (A) of this section for veterans and other eligible persons shall do all of the following:

(1) Ensure that veterans are treated with courtesy and respect at all state governmental facilities;

(2) Give priority in referral to jobs to qualified veterans and other eligible persons;

(3) Give priority in referral to and enrollment in training programs to qualified veterans and other eligible persons;

(4) Give preferential treatment to special disabled veterans in the provision of all needed state services;

(5) Provide information and effective referral assistance to veterans and other eligible persons regarding needed benefits and services that may be obtained through other agencies.

(E) As used in this section:

(1) "Special disabled veteran" means a veteran who is entitled to, or who but for the receipt of military pay would be entitled to, compensation under any law administered by the department of veterans affairs for a disability rated at thirty per cent or more or a person who was discharged or released from active duty because of a service-connected disability.

(2) "Veteran of the Vietnam era" means an eligible veteran who served on active duty for a period of more than one hundred eighty days, any part of which occurred from August 5, 1964, through May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge or a person who was discharged or released from active duty for a service-connected disability if any part of the active duty was performed from August 5, 1964, through May 7, 1975.

(3) "Disabled veteran" means a veteran who is entitled to, or who but for the receipt of military retirement pay would be entitled to compensation, under any law administered by the department of veterans affairs and who is not a special disabled veteran.

(4) "Eligible veteran" means a person who served on active duty for more than one hundred eighty days and was discharged or released from active duty with other than a dishonorable discharge or a person who was discharged or released from active duty because of a service-connected disability.

(5) "Other eligible person" means one of the following:

(a) The spouse of any person who died of a service-connected disability;

(b) The spouse of any member of the armed forces serving on active duty who at the time of the spouse's application for assistance under any program described in division (A) of this section is listed pursuant to the "Act of September 6, 1966," 80 Stat. 629, 37 U.S.C.A. 556, and the regulations issued pursuant thereto, as having been in one or more of the following categories for a total of ninety or more days:

(i) Missing in action;

(ii) Captured in line of duty by a hostile force;

(iii) Forcibly detained or interned in line of duty by a foreign government or power.

(c) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while such a disability was in existence.

(6) "Veteran" means either of the following:

(a) Any person who was a member of the armed forces of the United States for a period of one hundred eighty days or more or a person who was discharged or released from active duty because of a service-connected disability;

(b) A person who served as a member of the United States merchant marine and to whom either of the following applies:

(i) The person has an honorable report of separation from active duty military service, form DD214 or DD215.

(ii) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(7) "Armed forces of the United States" means the army, air force, navy, marine corps, coast guard, and any other military service branch that is designated by congress as a part of the armed forces of the United States.

(8) "Employment program" means a program which provides referral of individuals to employer job openings in the federal, state, or private sector.

(9) "Training program" means any program that upgrades the employability of qualified applicants.

(10) "Entitlement program" means any program that enlists specific criteria in determining eligibility, including but not limited to the existence in special segments of the general population of specific financial needs.

(11) "Targeted group" means a group of persons designated by federal law or regulations or by state law to receive special assistance under an employment and training program described in division (A) of this section.

(12) "United States merchant marine" includes the United States army transport service and the United States naval transport service.

Effective Date: 03-17-2000

5903.12 Extension of continuing education reporting period for licensee called to active duty military service.

(A) As used in this section:

(1) "Continuing education" means continuing education required of a licensee by law and includes, but is not limited to, the continuing education required of licensees under sections 3737.881, 3781.10, 4701.11, 4715.141, 4715.25, 4717.09, 4723.24, 4725.16, 4725.51, 4730.14, 4730.49, 4731.281, 4734.25, 4735.141, 4736.11, 4741.16, 4741.19, 4751.07, 4755.63, 4757.33, 4759.06, 4761.06, and 4763.07 of the Revised Code.

(2) "License" means a license, certificate, permit, or other authorization issued or conferred by a licensing agency under which a licensee may engage in a profession, occupation, or occupational activity.

(3) "Licensee" means a person to whom all of the following apply:

(a) The person has been issued a license by a licensing agency.

(b) The person is a member of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or a reserve component of the armed forces of the United States.

(c) The person has been called to active duty, whether inside or outside the United States, because of an executive order issued by the president of the United States or an act of congress, or upon the order of the governor, for a period in excess of thirty-one days.

(4) "Licensing agency" means any state department, division, board, commission, agency, or other state governmental unit authorized by the Revised Code to issue a license.

(5) "Reporting period" means the period of time during which a licensee must complete the number of hours of continuing education required of the licensee by law.

(B) Each licensing agency, upon receiving an application from one of its licensees that is accompanied by proper documentation certifying that the licensee has been called to active duty as described in division (A)(3)(c) of this section during the current or a prior reporting period and certifying the length of that active duty, shall extend the current reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current reporting period. For purposes of this division, any portion of a month served on active duty shall be considered one full month.

Effective Date: 04-10-2001; 05-17-2006; 2007 HB372 03-24-2008

5903.12 Factors used in determining fulfillment of required continuing education.

A "licensing agency," as defined in section 5903.12 of the Revised Code, shall consider relevant education, training, or service completed by a licensee as a member of the armed forces of the United States or reserve components thereof, the Ohio national guard, the Ohio military reserve, or the Ohio naval militia in determining whether a licensee has fulfilled required continuing education.

Effective Date: 2007 HB372 03-24-2008

5903.99 Penalty.

Whoever violates section 5903.02 of the Revised Code may be fined not more than one thousand dollars or imprisoned not more than six months, or both.

Effective Date: 09-18-1997; 2008 SB289 08-22-2008

Chapter 5905 Veterans' guardianship law

5905.01 Veterans' guardianship law definitions.

As used in sections 5905.01 to 5905.19, inclusive, of the Revised Code:

(A) "Person" means an individual, a partnership, a corporation, or an association.

(B) "Veterans' administration" means the veterans' administration, its predecessors, or successors.

(C) "Income" means moneys received from the veterans' administration and revenue or profit from any property wholly or partially acquired therewith.

(D) "Estate" means income on hand and assets acquired partially or wholly with "income."

(E) "Benefits" means all moneys paid or payable by the United States through the veterans' administration.

(F) "Administrator" means the administrator of veterans' affairs of the United States or his successor.

(G) "Ward" means a beneficiary of the veterans' administration.

(H) "Guardian" means any fiduciary for the person or estate of a ward.

Effective Date: 10-01-1953

5905.02 Commitment to the United States veterans' administration.

Whenever it appears that a person is eligible for care or treatment by the veterans' administration or other agency of the United States, and hospitalization is necessary for the proper care or treatment of such person, the probate court, upon receipt of a certificate from the veterans' administration or such other agency showing that facilities are available and such person is eligible for care or treatment therein, may order such person to said veterans' administration or other agency for care and treatment.

Upon admission, such person shall be subject to the applicable regulations of the veterans' administration or other agency of the United States. The chief officer of any hospital to which any person is admitted pursuant to hospitalization as provided in sections 5905.01 to 5905.19 of the Revised Code, or under the law in effect at the time of such admission, shall have the same powers as are exercised by heads of hospitals for mental diseases and the department of mental health with respect to the retention, transfer, parole, or discharge of the person hospitalized; provided no person shall be transferred to a hospital operated by the state or any political subdivision thereof without the consent of such department.

The right of such person to appear and defend shall not be denied.

The judgment or order of hospitalization by a court of competent jurisdiction of another state ordering a person to the veterans' administration or other agency of the United States, or any hospital operated by any such agency, for care or treatment shall have the same effect as to such person while in this state as in the state in which the court entering such judgment or making such order is situated, provided that no nonresident ordered to a veterans' administration facility located in Ohio shall thereby acquire a legal settlement in Ohio.

Upon receipt of a certificate that facilities are available in any such hospital operated by the United States for the care or treatment of any person ordered to any hospital for the mentally ill or other hospital in this state for the care of persons similarly afflicted, and that such person is eligible for such care or treatment, such department may transfer any such person to the veterans' administration or other agency of the United States in the state. Upon effecting any such transfer, the ordering court shall be notified thereof by the transferring agency; provided that no such person shall be transferred if he is confined pursuant to conviction of any crime or misdemeanor, or if he has been acquitted of any such charge solely on the ground of insanity, unless prior to such transfer the court originally ordering such person enters an order for such transfer after appropriate motion and hearing.

Any person transferred as provided in this section is ordered to the veterans' administration or other agency of the United States pursuant to the original order as though he had been originally so ordered.

Effective Date: 07-01-1980

5905.03 Administrator shall be a party in interest.

The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits paid by the veterans' administration before or after September 17, 1947. Not less than five days prior to hearing in such matter, notice in writing of the time and place thereof shall be given by mail, unless waived in writing, to the office of the veterans' administration having jurisdiction over the area in which any such suit or proceeding is pending.

Effective Date: 10-01-1953

5905.04 Appointment of guardian.

Whenever, pursuant to any law of the United States or regulation of the veterans' administration, it is necessary prior to payment of benefits that a guardian be appointed, the appointment may be made in the manner provided in sections 5905.05 to 5905.09, inclusive, of the Revised Code.

Effective Date: 10-01-1953

5905.05 Petition for appointment of guardian.

A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized to file such a petition. If there is no authorized person or if the authorized person fails to file such a petition within thirty days after mailing of notice by the veterans' administration to the last known address of the person indicating the necessity for such petition, a petition for appointment may be filed by any resident of this state.

The petition for appointment shall set forth:

- (A) The name, age, and place of residence of the ward;
- (B) The name and place of residence of the nearest relative, if known;
- (C) The fact that the ward is entitled to receive benefits payable by or through the veterans' administration;
- (D) The amount of money then due and the amount of probable future payments;
- (E) The name and address of the person or institution having actual custody of the ward;
- (F) The name, age, relationship, occupation, and address of the proposed guardian;
- (G) The number of wards for whom the nominee is presently acting as guardian, if the nominee is a natural person.

Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in the petition, the court may appoint some other individual or a bank or trust company as guardian, if the court determines it is for the best interest of the ward.

In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent by the veterans' administration on examination in accordance with the laws and regulations governing the veterans' administration.

Effective Date: 10-01-1953

5905.06 Limitation of guardianship - exception.

No person other than a bank or trust company shall be guardian of more than five wards at one time, unless all the wards are members of one family. Upon presentation of a petition by an attorney of the veterans' administration or other interested person alleging that a guardian is acting in a fiduciary capacity for more than five wards and requesting his discharge for that reason, the probate court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge him from guardianship in excess of five and forthwith appoint a successor.

Effective Date: 10-01-1953

5905.07 Guardian of minor ward.

Where a petition is filed for the appointment of a guardian for a minor as required by section 5905.05 of the Revised Code, a certificate of the administrator or his authorized representative setting forth the age of such minor as shown by the records of the veterans' administration and the fact that the appointment of a guardian is a condition precedent to the payment of any money due the minor by the veterans' administration shall be prima-facie evidence of the necessity for such appointment.

Effective Date: 10-01-1953

5905.08 Guardian of mentally incompetent ward.

Where a petition is filed for the appointment of a guardian for a mentally incompetent ward as required by section 5905.05 of the Revised Code, a certificate of the administrator or his authorized representative that such person has been rated incompetent by the veterans' administration on examination in accordance with the laws and regulations governing such veterans' administration and that the appointment of a guardian is a condition precedent to the payment of any money due such ward by the veterans' administration shall be prima-facie evidence of the necessity for such appointment.

Effective Date: 10-01-1953

5905.09 Notice to be given.

Upon the filing of a petition for the appointment of a guardian under section 5905.05 of the Revised Code, notice shall be given to the veterans' administration as provided by section 5905.03 of the Revised Code. Notice shall be given to the ward and to other persons, as to whom notice is required, in the manner provided by law.

Effective Date: 10-01-1953

5905.10 Bond of guardian.

Upon the appointment of a guardian pursuant to sections 5905.04 to 5905.09 of the Revised Code, he shall execute and file a bond to be approved by the probate court in an amount, in the form, and conditioned as required of guardians generally under sections 2109.04 and 2109.12 of the Revised Code. The court from time to time may require the guardian to file an additional bond.

If a bond is tendered by a guardian with personal sureties, there shall be at least two personal sureties, and they shall file with the court a certificate that shall describe the real and personal property owned and shall state that each personal surety is worth the sum named in the bond as the penalty of the bond, over and above all his debts and liabilities and the aggregate of other bonds on which he is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium of which shall be paid from the ward's estate.

Effective Date: 10-08-1992

5905.11 Annual account filed with the court.

Every guardian who has received or shall receive on account of the guardian's ward any things of value from the veterans administration shall file with the probate court annually, on the anniversary date of the appointment, in addition to any other accounts required by the court, a full and accurate account of all things of value received by the guardian, all earnings, interest, or profits derived from those things of value, all property acquired with those things of value, and all disbursements from those things of value. The account shall show the balance of those things of value in the guardian's hands at the date of the account and how it is invested.

The guardian, at the time of filing any account, shall exhibit all securities or investments held by the guardian to an officer of the depository in which the securities or investments are held for safekeeping, to an authorized representative of the corporation that is surety on the guardian's bond, to the judge or clerk of a court of record in this state, or, upon request of the guardian or other interested party, to any other reputable person designated by the probate court, who shall certify in writing that the judge, clerk, or other person has examined the securities or investments and identified them with those described in the account and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securities or investments to the court, which shall indorse on the account and copy of the account a certificate that the securities or investments shown in the account as held by the guardian were each in fact exhibited to the court and that those exhibited to the court were the same as those shown in the account, and shall note any omission or discrepancy. The certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable showing the amount on deposit shall be prepared and signed in duplicate, and one of each shall be filed by the guardian with the guardian's account.

At the time of filing any account in the court, a certified copy of the account and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the veterans administration having jurisdiction over the area in which the court is located. A signed duplicate or certified copy of any pleading pertaining to an account, or to any matter other than an account, that is filed in the guardianship proceedings or in any proceeding for the purpose of removing the disability of minority or mental incapacity, shall be furnished by the person filing the pleading to the proper office of the veterans administration. Unless hearing is waived in writing by the attorney of the veterans administration and by all other persons entitled to notice, the court shall fix a time and place for the hearing on the account in the manner provided by section 2109.32

of the Revised Code for publishing fiduciary accounts, unless a different available date is stipulated in writing. Unless waived in writing, written notice of the time and place of hearing shall be given to the veterans administration office concerned not less than fifteen days prior to the date fixed for the hearing. The notice may be given by mail in which event it shall be deposited in the mails not less than fifteen days prior to that date. The court or its clerk shall furnish to that veterans administration office a copy of each order entered in any guardianship proceeding in which the administrator is an interested party.

If the guardian is accountable for property derived from sources other than the veterans administration, the guardian shall be accountable under section 2109.302 of the Revised Code, and, as to the other property, the guardian shall be entitled to the compensation provided by section 2109.23 of the Revised Code. The account for other property shall be combined with the account filed in accordance with this section unless otherwise ordered by the court.

Effective Date: 10-31-2001

5905.12 Failure to file account.

If any guardian fails to file with the probate court any account as required by section 5905.11 of the Revised Code, or by an order of the court, when any account is due, or within thirty days after citation issues as provided by section 2109.31 of the Revised Code, or fails to furnish the veterans' administration a true copy of any account, petition, or pleading as required by sections 5905.01 to 5905.19, inclusive, of the Revised Code, the court may remove such guardian for such failure.

Effective Date: 10-01-1953

5905.13 Compensation of guardian.

Compensation payable to guardians shall be based upon services rendered and shall not exceed five per cent of the amount of moneys received during the period covered by the account required by section 5905.11 of the Revised Code. In the event of extraordinary services by any guardian, the probate court, upon petition and hearing thereon, may authorize reasonable additional compensation. A copy of the petition and notice of hearing thereon shall be given the proper office of the veterans' administration in the manner provided in the case of hearing on a guardian's account or other pleading. No commission or compensation shall be allowed on the moneys or other assets received from a prior guardian nor upon the amount received from liquidation of loans or other investments.

Effective Date: 10-01-1953

5905.14 Investment of surplus funds of estate.

Every guardian shall invest the surplus funds of his ward's estate in such securities or property as is authorized under section 2109.37 of the Revised Code, but only upon prior order of the probate court; except that the funds may be invested, without prior court authorization, in direct unconditional interest-bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or certified copy of the petition for authority to invest shall be furnished the proper office of the veterans' administration, and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

Effective Date: 10-01-1953

5905.15 Provisions applicable to income and estate.

Sections 5905.01 to 5905.19, inclusive, of the Revised Code relating to surety bonds and the administration of estates of wards shall apply to all "income" and "estate," whether the guardian was appointed under such sections or under any other law of this state.

Effective Date: 10-01-1953

5905.16 Support of person other than ward.

A guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward except upon petition to and prior order of the probate court after a hearing. A signed duplicate or certified copy of said petition shall be furnished the proper office of the veterans' administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account or other pleading.

Effective Date: 10-01-1953

5905.17 Real estate may be purchased by guardian.

The probate court may authorize the purchase of the entire fee simple title to real estate in this state in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or, if he is not a minor, as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished the proper office of the veterans' administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

Before authorizing such investment the court shall require written evidence of value, title, and the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section does not limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if it is necessary to protect the ward's interest and upon prior order of the court in which the guardianship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from cotenants the entire undivided interests held by them, or to bid and purchase such interests at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

Effective Date: 10-01-1953

5905.18 Certification of public record without charge.

When a copy of any public record is required by the veterans' administration to be used in determining the eligibility of any person to participate in benefits made available by the veterans' administration or in the furtherance of any proceedings under sections 5905.01 to 5905.19, inclusive, of the Revised Code, the official custodian of such public record shall without charge provide the applicant for such benefits, any person acting on his behalf, or the authorized representative of the veterans' administration with a certified copy of such record.

Effective Date: 10-01-1953

5905.19 Termination of guardianship.

In addition to any other sections of the Revised Code relating to judicial restoration and discharge of a guardian, a certificate by the veterans' administration showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the veterans' administration upon examination in accordance with law shall be prima-facie evidence that the ward has attained majority or has recovered his competency. Upon hearing after notice as provided by sections 5905.01 to 5905.19, inclusive, of the Revised Code, and the determination by the probate court that the ward has attained majority or has recovered his competency, an order shall be entered to that effect and the guardian shall file a final account. Upon hearing after notice to the former ward and to the veterans' administration as in case of other accounts upon approval of the final account and upon delivery to the ward of the assets due him from the guardian, the guardian shall be discharged and his sureties released.

Effective Date: 10-01-1953

Chapter 5907 Veterans' home agency

5907.01 Ohio veterans' home agency.

(A) As used in this chapter:

(1) "Nursing home" means a nursing home within a veterans' home.

(2) "Veterans' home" means a veterans' home operated by the Ohio veterans' home agency.

(B) There is hereby established the Ohio veterans' home agency as part of the department of veterans services. The agency shall maintain and operate veterans' and nursing homes for honorably discharged veterans.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.02 Board of trustees - duties - superintendent - annual report.

The director of veterans services shall govern the Ohio veterans' home agency and have charge and custody of the agency's facilities. The director shall govern, conduct, and care for veterans' homes, the property of the homes, and the veterans residing in the home.

All supplies for the agency shall be purchased as provided in sections 125.04 to 125.15 of the Revised Code.

The director shall appoint a superintendent of the Ohio veterans' home agency upon any terms that are proper, and the superintendent, with the advice and consent of the director, shall employ aides, assistants, and employees, and perform other duties that may be assigned to the superintendent by the director or become necessary in the carrying out of the superintendent's duties. The superintendent shall be responsible directly to the director.

Subject to section 5907.021 of the Revised Code, the superintendent may appoint one or more employees at each veterans' home as veterans' home police officers authorized to act on the grounds of that home. The superintendent shall provide to those employees a copy of the rules that apply to their appointment. The rules shall specify whether or not the police officers may carry a firearm.

Subject to section 5907.021 of the Revised Code, the superintendent shall appoint a chief of police of the Ohio veterans' home agency, determine the number of officers and other personnel required by each veterans' home, and establish salary schedules and other

conditions of employment for veterans' homes police officers. The chief of police shall serve at the pleasure of the superintendent and shall appoint officers and other personnel as the veterans' homes may require, subject to the rules and limits that the superintendent establishes regarding qualifications, salary ranges, and the number of personnel. The superintendent, with the approval of the director, may purchase or otherwise acquire any police apparatus, equipment, or materials, including a police communication system and vehicles, that the veterans' homes police officers may require. The superintendent may send one or more of the officers or employees nominated by the police chief to a school of instruction designed to provide additional training or skills related to their work assignment at their veterans' home. The superintendent may send those officers or employees to the Ohio peace officer training academy that the superintendent considers appropriate.

The director shall make an annual report to the governor as to all expenditures and as to the management of the Ohio veterans' home agency.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.021 Superintendent to terminate employment of police upon felony conviction.

(A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) The superintendent of the Ohio veterans' home shall not appoint a person as a chief of police or an employee as an Ohio veterans' home police officer on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person or employee previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The superintendent of the Ohio veterans' home shall terminate the employment of a chief of police or the employment as an Ohio veterans' home police officer of an employee appointed as an Ohio veterans' home police officer if that chief of police or employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the chief of police or employee agrees to surrender the certificate awarded to that chief of police or employee under section 109.77 of the Revised Code.

(b) The superintendent shall suspend from employment a chief of police or from employment as an Ohio veterans' home police officer an employee appointed as an Ohio veterans' home police officer if that chief of police or employee is convicted, after trial, of a felony. If the chief of police or the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the chief of police or the employee does not file a timely appeal, the superintendent shall terminate the employment of that chief of police or that employee as an Ohio veterans' home police officer. If the chief of police or the employee files an appeal that results in that chief of police's or that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that chief of police or that employee, the superintendent shall reinstate that chief of police or that employee as an Ohio veterans' home police officer. A chief of police or an employee who is reinstated as an Ohio veterans' home police officer under division (B)(2)(b) of this section shall not receive any back pay unless the conviction of that chief of police or that employee of the felony was

reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the chief of police or the employee of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a chief of police or an Ohio veterans' home police officer under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Effective Date: 01-01-2004

5907.022 Expanding nursing home care and domiciliary services.

The director of veterans services may do either of the following to expand nursing home care and domiciliary services to veterans at sites other than the Ohio veterans' homes and nursing homes:

(A) Enter into contracts or agreements, including agreements for the acceptance of grants, to construct, lease, purchase, or otherwise acquire real property or facilities to establish a network of facilities;

(B) Enter into contracts with private providers.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.023 Agency exempted from sunset review.

The Ohio veterans' home agency established by section 5907.01 of the Revised Code is not subject to sections 101.82 to 101.87 of the Revised Code.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.03 Inspection by congress of the United States.

The management and control of veterans' homes shall be subject to such inspection and supervision as the congress of the United States may require as a condition of making appropriations for their maintenance. A person appointed or designated by congress may make such inspection and exercise such supervision, and, if so required by congress, the person may have and exercise the privileges of the director of veterans services.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.04 Admission to veterans' home.

Subject to the following paragraph, all members of the armed forces, who served in the regular or volunteer forces of the United States or the Ohio national guard or members of the naval militia during the war with Spain, the Philippine insurrection, the China relief expedition, the Indian war, the Mexican expedition, World War I, World War II, or during the period beginning June 25, 1950 and ending July 19, 1953, known as the Korean conflict, or during the period beginning August 5, 1964, and ending July 1, 1973, known as the Vietnam conflict, or any person who is awarded either the armed forces expeditionary medal established by presidential executive order 10977 dated December 4, 1961, or the Vietnam service medal established by presidential executive order 11231 dated July 8, 1965, who have been honorably discharged or separated under honorable conditions therefrom, or any discharged members of the Polish and Czechoslovakian

armed forces who served in armed conflict with an enemy of the United States in World War I or World War II who have been citizens of the United States for at least ten years, provided that the above-mentioned persons have been citizens of this state for five consecutive years or more at the date of making application for admission, are disabled by disease, wounds, or otherwise, and are by reason of such disability incapable of earning their living, and all members of the Ohio national guard or naval militia who have lost an arm or leg, or their sight, or become permanently disabled from any cause, while in the line and discharge of duty, and are not able to support themselves, may be admitted to a veterans' home under such rules as the director of veterans services adopts.

A person who served in the armed forces of the United States as defined in division (E)(7) of section 5903.11 of the Revised Code is eligible for admission to a veterans' home under the preceding paragraph only if the person has the characteristics defined in division (B)(1) of section 5901.01 of the Revised Code.

The superintendent of the Ohio veterans' home agency shall promptly and diligently pursue the establishment of the eligibility for medical assistance under Chapter 5111. of the Revised Code of all persons admitted to a veterans' home and all residents of a home who appear to qualify and shall promptly and diligently pursue and maintain the certification of each home's compliance with federal laws and regulations governing participation in the medical assistance program to include as large as possible a part of the home's bed capacity.

Veterans' homes may reserve a bed during the temporary absence of a resident or patient from the home, including a nursing home within it, under conditions prescribed by the director, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the home. A home shall not reserve a bed for more than thirty days, except that absences for more than thirty days due to hospitalization may be authorized.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.05 Preference for service in Ohio military organizations.

In the admission to a veterans' home of honorably discharged veterans who have served the United States government, preference shall be given to those who served in Ohio military organizations.

Effective Date: 03-14-2003

5907.06 Incompetent person not admitted to home.

(A) A mentally ill person subject to hospitalization by court order whose mental condition causes the person to be dangerous to the community shall not be admitted to a veterans' home. If a mentally ill person subject to hospitalization by court order, through misrepresentation as to the person's condition, is sent to a home, the person shall be returned to, and the expense of the return shall be borne by, the county from which the person came.

(B) As used in this section, "mentally ill person subject to hospitalization by court order" has the same meaning as in section 5122.01 of the Revised Code.

Effective Date: 03-14-2003; 2007 HB53 08-07-2007; 2008 SB157 05-14-2008

5907.07 Veterans service commission fund to pay expense of transportation.

When a veteran is entitled to admission into a veterans' home, the chairperson of the veterans service commission of the county in which the veteran resides, upon application, may furnish the veteran transportation to the home by the most direct route from the veteran's residence. The transportation shall be paid from the veterans service commission fund of the county.

Effective Date: 03-14-2003

5907.08 Proceedings when resident becomes incompetent.

When a resident of a veterans' home becomes dangerous to the community due to a mental illness, the superintendent of the Ohio veterans' home agency shall file with the probate judge of the county in which the home is located substantially the following affidavit:

"The State of Ohio, county, ss., superintendent of the Ohio veterans' home agency, being duly sworn, says that the superintendent believes that, a resident of the veterans' home located in county, has a mental illness; that, in consequence of the resident's mental illness, the resident's being at large is dangerous to the community, and that the resident was received into the home from county, on the day of,"

Effective Date: 03-14-2003; 2007 HB53 08-07-2007

5907.09 Hearing by probate judge - costs.

(A) When the affidavit referred to in section 5907.08 of the Revised Code is filed, the probate judge shall forthwith determine whether the resident is a mentally ill person subject to hospitalization by court order. Insofar as applicable, the laws governing in cases of admission to a state hospital for persons with mental illness shall apply. The probate judge shall have the same authority, and may receive and order paid the same fees and costs, as the probate judge would have in the county in which the veteran was a resident at the time of entering the veterans' home.

(B) As used in this section, "mentally ill person subject to hospitalization by court order" has the same meaning as in section 5122.01 of the Revised Code.

Effective Date: 03-14-2003; 2007 HB53 08-07-2007; 2008 SB157 05-14-2008

5907.10 Nursing home within veterans' home.

(A) The Ohio veterans' home agency shall maintain and operate a nursing home as part of each veterans' home for the benefit of honorably discharged veterans admitted to a veterans' home under this chapter. The nursing homes are subject to sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(B) The nursing home within the veterans' home located in Sandusky shall be known as "The Robert T. Secrest Nursing Home."

Effective Date: 03-14-2003

5907.11 Resident's benefit funds.

(A) The superintendent of the Ohio veterans' home agency, with the approval of the director of veterans services, may establish a local fund for each veterans' home to be used for the entertainment and welfare of the residents of the home. Each fund shall be designated as the residents' benefit fund and shall be operated for the exclusive benefit of the residents of the associated home. Each fund shall receive all revenue from the sale of commissary items at the associated home and shall receive all moneys received as donations by the associated home from any source.

(B) The residents' benefit funds also may be used to receive and disburse any donations made for events sponsored by the Ohio veterans hall of fame.

(C) The superintendent, subject to the approval of the director, shall establish rules for the operation of the residents' benefit funds.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.12 Volunteer programs.

The director of veterans services may utilize the services of volunteers to assist in attending to and caring for residents, assisting in resident activities, caring for veterans' homes' buildings and grounds, and participating in any other services that accomplish any of the director's purposes related to veterans' homes. All volunteer programs are subject to the director's approval. The director may recruit, train, and supervise the services of community volunteers or volunteer groups for volunteer programs. The director may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code and for the purpose of indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.13 Assessment of fees to pay expenses of support.

Residents of veterans' homes may be assessed a fee to pay a portion of the expenses of their support, dependent upon their ability to pay. Subject to controlling board approval, the director of veterans services shall adopt rules for determining a resident's ability to pay. Each resident shall furnish the director statements of income, assets, debts, and expenses that the director requires.

All fees contributed by the residents under this section shall be deposited into an interest-bearing account in a public depository in accordance with section 135.18 of the Revised Code. All of these fees shall be paid to the treasurer of state within thirty days after the end of the month of receipt, together with all interest credited to the account to date. The treasurer of state shall credit eighty per cent of these fees and of this interest to the Ohio veterans' homes operating fund and twenty per cent of these fees and of this interest to the Ohio veterans' homes fund.

The fee for each resident shall be based upon the level of care provided to the resident by the resident's home. The director shall determine authorized levels of care for residents. The assessment for each resident shall not exceed the difference between the total per diem amount collected by the state for maintenance from all sources on the resident's behalf and the average annual per diem cost for the resident's maintenance, computed in accordance with veterans administration regulations.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.131 Ohio veterans' homes operating fund.

There is hereby created in the state treasury the Ohio veterans' homes operating fund, in which shall be placed the fee and interest revenue credited to it under section 5907.13 of the Revised Code. The fund shall be used for paying the operating costs of veterans' homes.

Effective Date: 03-14-2003

5907.14 Ohio veterans' homes fund.

There is hereby created in the state treasury the Ohio veterans' homes fund, to which shall be credited the fee and interest revenue specified in section 5907.13 of the Revised Code. The fund shall be used only for the following purposes:

- (A) Paying the cost of capital facilities or equipment purchases for veterans' homes;
- (B) Participation in capital facilities for veterans' homes with the federal government, municipal corporations, counties, or other governmental agencies.

Effective Date: 03-14-2003

5907.141 Ohio veterans' homes federal grant fund.

(A) All money received from the United States department of veterans affairs in per diem grants for care that veterans' homes provide shall be deposited in the state treasury to the credit of the Ohio veterans' homes federal grant fund, which is hereby created. Money credited to the fund shall be used only for the operating costs of veterans' homes.

(B) Any resident of a veterans' home whom the United States department of veterans affairs determines to have excess income or assets, or is denied per diem for any reason by the United States department of veterans affairs, therefore rendering the home ineligible to collect per diem grant reimbursement for days of care provided to that resident, may be required to pay, in addition to the fees assessed under section 5907.13 of the Revised Code, an amount equal to the rate of per diem grant that the department denied for that particular resident. Any amount that the resident pays under this division shall be collected and distributed in the same manner as the fees assessed under section 5907.13 of the Revised Code.

Effective Date: 03-14-2003; 2008 SB289 08-22-2008

5907.15 Ohio veterans' homes rental, service, and medicare reimbursement fund.

There is hereby created in the state treasury the Ohio veterans' homes rental and service fund. Revenue generated from temporary use agreements of a veterans' home, from the sale of meals at a home's dining halls, and from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by a home shall be credited to the fund. The fund shall be used for maintenance costs of the homes and for the purchase of medications, medication services, medical supplies, and medical equipment by the homes.

Effective Date: 03-14-2003; 09-09-2005; 2007 HB119 06-30-2007

5907.16 Medicare services fund.

There is hereby created in the state treasury the medicare services fund. Revenue from federal reimbursement of medicare services that were provided at state veterans' homes

shall be credited to the fund. The fund shall be used for paying the operating costs of the state veterans' homes.

Effective Date: 2007 HB119 06-30-2007

Chapter 5910 War Orphans
Scholarships

CHAPTER 5910: WAR ORPHANS

5910.01 War orphans - scholarship definitions.

As used in this chapter and section 5919.34 of the Revised Code:

(A) "Child" includes natural and adopted children and stepchildren who have not been legally adopted by the veteran parent provided that the relationship between the stepchild and the veteran parent meets the following criteria:

(1) The veteran parent is married to the child's natural or adoptive parent at the time application for a scholarship granted under this chapter is made; or if the veteran parent is deceased, the child's natural or adoptive parent was married to the veteran parent at the time of the veteran parent's death;

(2) The child resided with the veteran parent for a period of not less than ten consecutive years immediately prior to making application for the scholarship; or if the veteran parent is deceased, the child resided with the veteran parent for a period of not less than ten consecutive years immediately prior to the veteran parent's death;

(3) The child received financial support from the veteran parent for a period of not less than ten consecutive years immediately prior to making application for the scholarship; or if the veteran parent is deceased, the child received financial support from the veteran parent for a period of not less than ten consecutive years immediately prior to the veteran parent's death.

(B) "Veteran" includes either of the following:

(1) Any person who was a member of the armed services of the United States for a period of ninety days or more, or who was discharged from the armed services due to a disability incurred while a member with less than ninety days' service, or who died while a member of the armed services; provided that such service, disability, or death occurred during one of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; January 1, 1960, to May 7, 1975; August 2, 1990, to the end of operations conducted as a result of the invasion of Kuwait by Iraq, including support for operation desert shield and operation desert storm, as declared by the president of the United States or the congress; October 7, 2001, to the end of operation enduring freedom as declared by the president of the United States or the congress; March 20, 2003, to the end of operation Iraqi freedom as declared by the president of the United States or the congress; or any other period of conflict established by the United States department of veterans affairs for pension purposes;

(2) Any person who served as a member of the United States merchant marine and to whom either of the following applies:

(a) The person has an honorable report of separation from the active duty military service, form DD214 or DD215.

(b) The person served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service.

(C) "Armed services of the United States" or "United States armed forces" includes the army, air force, navy, marine corps, coast guard, and such other military service branch as may be designated by congress as a part of the armed forces of the United States.

(D) "Board" means the Ohio war orphans scholarship board created by section 5910.02 of the Revised Code.

(E) "Disabled" means having a sixty per cent or greater service-connected disability or receiving benefits for permanent and total nonservice-connected disability, as determined by the United States department of veterans affairs.

(F) "United States merchant marine" includes the United States army transport service and the United States naval transport service.

Effective Date: 03-17-2000; 08-11-2004

5910.02 Ohio war orphans scholarship board.

There is hereby created an Ohio war orphans scholarship board as part of the department of veterans services. The board consists of eight members as follows: the chancellor of the Ohio board of regents or the chancellor's designee; the director of veterans services or the director's designee; one member of the house of representatives, appointed by the speaker; one member of the senate, appointed by the president of the senate; and four members appointed by the governor, one of whom shall be a representative of the American Legion, one of whom shall be a representative of the Veterans of Foreign Wars, one of whom shall be a representative of the Disabled American Veterans, and one of whom shall be a representative of the AMVETS. At least ninety days prior to the expiration of the term of office of the representative of a veterans organization appointed by the governor, the governor shall notify the state headquarters of the affected organization of the need for an appointment and request the organization to make at least three nominations. Within sixty days after making the request for nominations, the governor may make the appointment from the nominations received, or may reject all the nominations and request at least three new nominations, from which the governor shall make an appointment within thirty days after making the request for the new nominations. If the governor receives no nominations during this thirty-day period, the governor may appoint any veteran.

Terms of office for the four members appointed by the governor shall be for four years, commencing on the first day of January and ending on the thirty-first day of December, except that the term of the AMVETS representative shall expire December 31, 1998, and the new term that succeeds it shall commence on January 1, 1999, and end on December 31, 2002. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. The other members shall serve during their terms of office. Any vacancy shall be filled by appointment in the same manner as by original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The members of the board shall serve without pay but shall be reimbursed for travel expenses and for other actual and necessary expenses incurred in the performance of their duties, not to exceed ten dollars per day for ten days in any one year to be

appropriated out of any moneys in the state treasury to the credit of the general revenue fund.

The chancellor of the board of regents shall act as secretary to the board and shall furnish such clerical and other assistance as may be necessary to the performance of the duties of the board.

The board shall determine the number of scholarships to be made available, receive applications for scholarships, pass upon the eligibility of applicants, decide which applicants are to receive scholarships, and do all other things necessary for the proper administration of this chapter.

Effective Date: 10-21-1997; 2008 SB289 08-22-2008

5910.03 Scholarship eligibility.

Scholarships shall be granted only to children of deceased or disabled veterans of the armed services of the United States. To be eligible for a scholarship, such child shall:

(A) At the time of application, have attained the sixteenth, but not the twenty-fifth, birthday;

(B) At the time of application, if a child of a veteran who entered the armed services:

(1) As a legal resident of Ohio, have resided in the state for the last preceding year;

(2) Not as a legal resident of Ohio, have resided in the state for the year preceding the year in which application for the scholarship is made and any other four of the last ten years;

(C) Be in financial need, as determined by the board.

Effective Date: 10-21-1997; 2006 HB699 03-29-2007

5910.031 War orphans' scholarships for children of members of the Ohio national guard and reserved components of armed services.

War orphans' scholarships provided in sections 5910.01 to 5910.06 of the Revised Code, shall be granted to children of members of the Ohio national guard and the reserve components of any of the armed services of the United States who are killed or permanently and totally disabled while on active duty pursuant to bona fide orders of the governor or the president of the United States, or who are killed or permanently and totally disabled while at a scheduled training assembly, a field training period of any duration or length, or active duty for training, pursuant to bona fide orders issued by a competent authority. Such scholarships shall be granted within the total number of scholarships provided under section 5910.05 of the Revised Code and are available only to children who further qualify pursuant to divisions (A), (B), (C), and (D) of section 5910.03 of the Revised Code.

As used in this section, "permanently and totally disabled" means having a disability which renders the person incapable of engaging in substantially gainful employment and which is presumed to be permanent, as determined by a special board of three officers of the Ohio national guard named by the governor, one of whom shall be a medical officer licensed to practice in this state.

Effective Date: 06-30-1995

5910.032 War orphans' scholarships for children of persons declared prisoner of war or missing in action.

(A) A war orphans scholarship, as provided under sections 5910.01 to 5910.06 of the Revised Code, shall be granted to the child of any person who, in the course of honorable service in the armed services of the United States, was declared by the United States department of defense to be a prisoner of war or missing in action as a result of the United States' participation in armed conflict on or after January 1, 1960, if either of the following apply:

(1) The parent, at the time of entry into the armed services of the United States, or at the time the parent was declared to be a prisoner of war or missing in action, was a resident of Ohio;

(2) If the parent did not enter the armed services as a resident of Ohio and was not a resident of Ohio when declared a prisoner of war or missing in action, the child has resided in Ohio for the year immediately preceding the year in which the application for the scholarship is made and any four of the last ten years.

The scholarships shall be in addition to the total number of scholarships provided under section 5910.05 of the Revised Code. Notwithstanding section 5910.03 of the Revised Code, scholarships provided under this section shall be made to any such child who, at the time of application, has attained the sixteenth, but not the twenty-first, birthday. The termination of a child's parent or guardian's status as a prisoner of war or being missing in action does not affect such child's eligibility for the benefit provided by this section.

(B) Scholarships provided under this section shall consist of either of the following:

(1) A scholarship of the type described in division (A) of section 5910.04 of the Revised Code together with reasonable and necessary expenses for room, board, books, and laboratory fees. The additional amount for such expenses shall be paid from moneys appropriated by the general assembly for such purpose.

(2) A scholarship of the type described in division (B) of section 5910.04 of the Revised Code together with an additional grant equal to the average value of the reasonable and necessary expenses granted under division (B)(1) of this section during the preceding year for room, board, books, and laboratory fees. The additional grant shall be paid from moneys appropriated by the general assembly for such purpose, and shall be paid to the child through the institution in which the child is enrolled. In no case shall the additional grant exceed the amount actually expended by the child for room, board, books, and laboratory fees.

Effective Date: 06-29-1999

5910.04 Scholarship types.

Scholarships granted under sections 5910.01 to 5910.06 of the Revised Code shall consist of either of the following:

(A) An exemption from the payment of one hundred per cent of the general and instructional fees at colleges and universities which receive support from the state of Ohio and are approved by the chancellor of the board of regents, except that the percentage may be reduced by the war orphans scholarship board in any year that insufficient funds are appropriated to fully fund scholarships for all eligible students;

(B) A grant to an eligible child who is enrolled in an institution that has received a certificate of authorization from the board of regents under Chapter 1713. of the Revised

Code, or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or an institution that has received a certificate of registration from the state board of proprietary school registration. Students who attend an institution that holds a certificate of registration shall be enrolled in either a program leading to an associate degree or a program leading to a bachelor's degree for which associate or bachelor's degree program the institution has received program authorization issued under section 3332.05 of the Revised Code to offer such degree program. The grant shall be paid to the child through the institution in which the child is enrolled, and shall equal one hundred per cent of the average value of all scholarships granted under division (A) of this section during the preceding year, except that the percentage may be reduced by the war orphans scholarship board in any year that insufficient funds are appropriated to fully fund scholarships for all eligible students. In no case shall the grant exceed the total general and instructional charges of the institution.

The board shall not reduce the percentage to be paid for scholarships awarded pursuant to section 5910.032 of the Revised Code below one hundred per cent.

Effective Date: 02-20-2002

5910.05 Scholarships granted based upon available funds - minimum requirements.

The Ohio war orphans scholarship board shall determine how many scholarships are to be granted based upon available funds provided by the Ohio general assembly. If funds are available all eligible applicants shall be granted a scholarship. There shall be no limitation on the number of scholarships granted under section 5910.032 of the Revised Code, nor any limitation on the number of scholarships granted to any college or university under such section. No person shall be granted a scholarship for more than five academic years of education, which shall be at the undergraduate level. The board shall provide minimum scholastic requirements for recipients and shall withdraw the aid from any person who fails to maintain such requirements.

Effective Date: 12-02-1996

5910.06 Annual report.

The Ohio war orphans scholarship board shall make a complete report of its administration of this chapter, to each first regular session of the general assembly.

Effective Date: 10-21-1997

Chapter 5911 Armories

5911.01 Armory definitions.

As used in Chapters 5911., 5913., 5919., 5920., 5923., and 5924. of the Revised Code:

(A) "Unit" means a company, battery, troop, air squadron, band, or detachment.

(B) "Organization" means a command composed of two or more units.

Effective Date: 10-24-1961

5911.011 Powers of adjutant general as director of state armories.

(A) As director of state armories, the adjutant general may acquire, design, construct, expand, rehabilitate, and convert grounds, armories, airfields, and other facilities for the purposes of developing, training, and operating units of the Ohio national guard and for the safekeeping of arms, clothing, equipment, and other state or federal military property issued to the Ohio national guard, or state property issued to the Ohio military reserve or the Ohio naval militia.

(B) In acquiring grounds, armories, airfields, and other facilities for the purposes described in division (A) of this section, the adjutant general may lease property for any term up to ninety-nine years, subject to the availability of state funds or federal funds obtained under an agreement by which the United States contributes to the cost of leasing the grounds, armory, airfield, or other facility, or the adjutant general may build suitable buildings, airfields, and facilities for those purposes.

(C) The adjutant general may provide for the leasing, management, care, and maintenance of those grounds, armories, airfields, and other facilities and may prescribe any rules for the management and guidance of the organizations and units occupying them that are necessary. When promulgating those rules, the adjutant general need not comply with Chapter 111. or 119. of the Revised Code.

Effective Date: 09-18-1997

5911.02 Assignment of military facilities.

The adjutant general shall assign to each organization and unit of the Ohio national guard, and the Ohio military reserve the armories, grounds, buildings, airfields, and other facilities provided for in sections 5911.01 to 5911.18 of the Revised Code.

Effective Date: 09-23-1985

5911.03 Gifts become state property.

(A) The adjutant general may receive gifts of land, money, or other property for the purpose of aiding in the acquisition of grounds and airfields, or the purchase, building, furnishing, or maintaining of an armory, airfield, or other facility for military purposes.

(B) All lands acquired under this section shall be deeded to the state, and all property received under this section from any source shall become the property of this state, except as may be provided in an agreement by which the United States contributes to the cost of acquiring, designing, or constructing the grounds, armory, airfield, or other facility used for developing, training, and operating units of the national guard.

Effective Date: 09-18-1997

5911.04 Construction of armories and facilities.

The adjutant general shall be governed in the construction of armories, other facilities, and airfields for military purposes by sections 153.01 to 153.20 and 153.50 to 153.60 of the Revised Code.

Effective Date: 09-18-1997

5911.05 Appropriation of property.

The adjutant general has the same power as the director of administrative services to condemn and appropriate land and such land is hereby declared to be a public necessity.

Such power shall be exercised in accordance with sections 163.01 to 163.22 of the Revised Code.

Effective Date: 12-04-1973

5911.07 Use and occupancy of armories.

The armories erected by the state are for the use of the organized militia; but in each armory there shall be provided and maintained, except as provided in this section, a suitable room including heating, lighting, and janitor services, for the free use of the organizations known as the women's relief corps, sons of veterans, sons of veterans' auxiliary, daughters of veterans, united Spanish war veterans, auxiliary united Spanish war veterans, veterans of foreign wars of the United States, veteran organizations of World War I and World War II, army and navy union of the United States, and honorably retired officers of the Ohio national guard, Ohio military reserve, and Ohio naval militia, unless such rooms are already provided by the erection of a county memorial building or otherwise by the state, or by the county, township, or municipal corporation. This section does not require a separate room to be maintained for each organization. The room provided in this section may be used for military training when not in actual use by one of the aforementioned organizations. This section applies only during the time that such armory is being used by an active military organization or unit of the organized militia.

Effective Date: 09-23-1985

5911.08 Sale of beer or intoxicating liquor prohibited.

(A) Except as allowed under a permit issued under Chapter 4303. of the Revised Code, the sale of beer or intoxicating liquor in an armory, airfield, or other facility used for training and for the safekeeping of arms, clothing, equipment, and other military property belonging to the Ohio organized militia provided for by section 5911.011 of the Revised Code is prohibited.

(B) Any person guilty of violating division (A) of this section shall be punished as provided in Chapter 4303. of the Revised Code.

Effective Date: 09-18-1997

5911.09 Armory board of control - appointment.

For each armory erected or provided, the adjutant general shall appoint a board of control, to consist of one or more officers of the organizations or units quartered therein. Such board or officer in control may rent the armory for temporary purposes, subject to regulations prescribed by the adjutant general, and the money derived from such rental shall be paid into the treasury of the armory board of control.

Effective Date: 10-24-1961

5911.10 Armory improvements fund - lease or sale of vacant armory.

If any armory erected or purchased by the state becomes vacant because of the deactivation of the organizations quartered in that armory, the governor and the adjutant general may lease that armory for periods not to exceed one year; or, when authorized by an act of the general assembly, may sell that armory or lease it for a period of years. The proceeds from the sale or lease of such an armory shall be credited to the armory improvements fund, which is hereby created in the state treasury.

Effective Date: 09-29-1994

5911.12 Annual report.

The board of control provided for by section 5911.09 of the Revised Code, shall make an annual report of the proceedings incident to the location and management of grounds, airfields, armories, and other buildings for military purposes and a detailed account of all receipts and disbursements. The report shall be filed in the office of the adjutant general.

Effective Date: 10-24-1961

5911.18 Attorney general to serve as legal advisor to adjutant general.

Whenever it is necessary to condemn and appropriate lands, examine contracts, sue on bonds, or have other work done that requires legal counsel, the attorney general shall represent and be the legal advisor to the adjutant general.

Effective Date: 09-29-1994

Chapter 5913 Adjutant General

5913.01 Adjutant general is administrative head of organized militia - duties.

(A) The adjutant general is the administrative head of the Ohio organized militia. The adjutant general shall:

- (1) Be provided offices and shall keep them open during usual business hours;
- (2) Have and maintain custody of all military records, correspondence, and other documents of the Ohio organized militia;
- (3) Superintend the preparation of all returns and reports required by the United States from the state on military matters;
- (4) Keep a roster of all officers of the Ohio organized militia, including retired officers;
- (5) Whenever necessary, cause the military provisions of the Revised Code and the orders, regulations, pamphlets, circulars, and memorandums of the adjutant general's department to be printed and distributed to the organizations of the Ohio organized militia;
- (6) Prepare and issue all necessary Ohio organized militia forms and attest to all commissions issued to officers of the Ohio organized militia;
- (7) Have a seal, and all copies of orders, records, and papers in the adjutant general's office certified and authenticated with that seal shall be competent evidence in like manner as if the originals were produced. All orders issued from the adjutant general's office shall bear a duplicate of the seal.
- (8) Keep and preserve the arms, ordnance, equipment, and all other military property belonging to the state or issued to the state by the federal government and issue any regulations necessary to keep, preserve, and repair the property as conditions demand;
- (9) Issue adjutant general's property to the units of the Ohio organized militia as the necessity of the service or organizational or allowance tables requires;

(10) Submit an annual report to the governor at such time as the governor requires of the transaction of the adjutant general's department, setting forth the strength and condition of the Ohio organized militia and other matters that the adjutant general chooses;

(11) Command the state area command of the Ohio national guard.

(B) The adjutant general shall issue and distribute all orders issued in the name of the governor as the commander in chief of the Ohio organized militia and perform the duties that the governor directs and other duties prescribed by law.

(C) The adjutant general may enter into cooperative agreements, contractual arrangements, or agreements for the acceptance of grants with the United States or any agency or department of the United States, other states, any department or political subdivision of this state, or any person or body politic, to accomplish the purposes of the adjutant general's department. The adjutant general shall cooperate with, and not infringe upon, the rights of other state departments, divisions, boards, commissions, and agencies, political subdivisions, and other public officials and public and private agencies when the interests of the adjutant general's department and those other entities overlap.

The funds made available by the United States for the exclusive use of the department shall be expended only by the department and only for the purposes for which the federal funds were appropriated. In accepting federal funds, the department agrees to abide by the terms and conditions of the grant or cooperative agreement and further agrees to expend the federal funds in accordance with the laws and regulations of the United States.

Effective Date: 09-18-1997

5913.011 Securing social security benefits for employees of the Ohio national guard.

The adjutant general of Ohio is hereby authorized to enter into a contract with the federal department of health, education, and welfare for the purpose of securing social security benefits, under the national social security act, for those employees of the Ohio national guard who are paid from federal funds, and for whom the federal congress appropriates funds to cover employer's share of social security payments.

Effective Date: 09-16-1957

5913.02 Governor's military staff.

(A) The military staff of the governor may consist of any of the following:

(1) An adjutant general in the grade of major general, who shall perform the duties of quartermaster general;

(2) An assistant adjutant general for army in the grade of major general;

(3) An assistant adjutant general for air in the grade of major general;

(4) An assistant quartermaster general in the grade of colonel or any retired officer who has appropriate qualifications for the position, as determined by the adjutant general and the governor.

All persons named in divisions (A)(1) to (4) of this section shall be appointed by the governor and shall hold office during the governor's pleasure.

(B) The governor's military staff also shall include four aides-de-camp, who shall be appointed by the governor and hold office during the governor's pleasure.

Effective Date: 09-18-1997

5913.021 Qualifications of officers.

(A) The adjutant general at the time of appointment shall be a federally recognized officer in the Ohio national guard in the grade of colonel or above.

(B) The assistant adjutant general for army at the time of appointment shall be a federally recognized officer in the Ohio army national guard in the grade of colonel or above.

(C) The assistant adjutant general for air at the time of appointment shall be a federally recognized officer in the Ohio air national guard in the grade of colonel or above.

(D) The assistant quartermaster general at the time of appointment shall be a federally recognized officer in the Ohio army national guard in the grade of lieutenant colonel or above, or any retired officer who has appropriate qualifications for the position, as determined by the adjutant general and the governor.

(E) The adjutant general, the assistant adjutant general for army, the assistant adjutant general for air, and the assistant quartermaster general at the time of appointment shall each have not less than ten years' commissioned service in the armed forces of the United States, not less than five years of that service being in the Ohio national guard, and shall at all times during their tenure of office be federally recognized officers of the Ohio national guard.

(F) The provisions of this section relative to federal recognition shall be suspended during any period of emergency when the majority of the units of the Ohio national guard are in the federal service. In that event, retired officers of the Ohio national guard shall be eligible to serve as adjutant general, assistant adjutant general for army, assistant adjutant general for air, and assistant quartermaster general for the duration of such emergency or until a majority of the units of the Ohio national guard are released from federal service.

Effective Date: 09-18-1997

5913.03 Bonds of officers.

The adjutant general shall give bond in the sum of thirty thousand dollars to the state conditioned upon the faithful performance of the adjutant general's official duties; the assistant adjutant general for army and the assistant adjutant general for air shall give bond in the sum of ten thousand dollars; and the assistant quartermaster general shall give bond in the sum of twenty thousand dollars. If a surety bond is given, the premiums shall be paid out of funds appropriated for the surety bond. These bonds shall be filed in the office of the secretary of state. All other bonds given by the various officers of the Ohio organized militia shall be filed and recorded in the office of the adjutant general.

Effective Date: 09-18-1997

5913.04 Aides-de-camp detailed from national guard.

The governor's aides-de-camp shall be detailed from the commissioned officers of the Ohio national guard in active service. This detail shall not add to the grade of the officer so appointed. The officers detailed as aides-de-camp shall not be relieved from duty with

their respective organizations, but shall perform duties as aides-de-camp under orders of the governor as an exception to their usual duties.

Effective Date: 09-18-1997

5913.05 Assistant adjutants general - duties.

(A) The assistant adjutants general shall serve in the office of the adjutant general and aid the adjutant general by performing the duties that the adjutant general assigns them.

(B) In the absence or disability of the adjutant general, the senior assistant adjutant general shall perform the duties of the adjutant general.

(C) In the absence or disability of the adjutant general and the senior assistant adjutant general, the junior assistant adjutant general shall perform the duties of the adjutant general.

Effective Date: 09-18-1997

5913.051 Assistant to state area commander for readiness and training for army.

To supplement the military staff of the governor, the adjutant general may appoint an assistant to the state area commander for readiness and training for army. This assistant shall be a brigadier general and shall aid the adjutant general by performing duties that the adjutant general assigns in the areas of readiness, training, and mobilization. This assistant shall not be a full-time state employee, but shall serve in that capacity only during federally recognized training, special duty periods, or mobilization periods, and shall at the time of appointment be in the rank of colonel or above but otherwise meet the qualifications established in section 5913.021 of the Revised Code.

Effective Date: 09-18-1997

5913.06 Assistant quartermaster general.

(A) The assistant quartermaster general, under direction of the adjutant general as quartermaster general, shall have charge of all state military property and property of the adjutant general's department belonging to the state.

(B) The assistant quartermaster general shall keep an accurate account of state military property and property of the adjutant general's department and prepare reports as the adjutant general directs.

(C) The assistant quartermaster general shall perform other duties assigned by the adjutant general.

(D) In the absence or disability of the adjutant general and the assistant adjutants general, the assistant quartermaster general shall perform the duties of the adjutant general.

Effective Date: 09-18-1997

5913.07 Retired officers list.

(A) Any person who has served as a member of the Ohio organized militia or of the armed forces of the United States, or both, for a period of twenty years, eight years of which have been served as a commissioned officer of the Ohio organized militia, at the

person's request and upon approval of the adjutant general, may be placed upon the retired list, which shall be kept in the office of the adjutant general.

(B) Retired officers shall receive no compensation from the state for their services except as provided in this section, but may on all occasions of ceremony wear the uniform of their rank.

(C) The adjutant general may assign or detail retired officers upon duty and when so assigned or detailed, they shall receive the same pay and allowances as officers on the active list of the element of the Ohio organized militia assigned, detailed, or employed under like condition.

Effective Date: 09-18-1997

5913.08 Direction over property - employees.

The adjutant general has general direction over military and other adjutant general's department property belonging to the state. The adjutant general may employ employees as necessary to carry out the duties of the adjutant general's department.

Effective Date: 09-18-1997

5913.09 Custodian of military property of state.

(A) The adjutant general is the custodian of all military and other adjutant general's department property, both real and personal, belonging to the state.

(B) The adjutant general may make changes and improvements to military and other adjutant general's department property as the needs of the state and federal government and the exigencies of the service require. All improvements made upon that property belonging to the state, from moneys received either all or in part from the state or federal government, or both, become the property of the state, except as may be provided in an agreement and corresponding regulations by which the United States contributes to the cost of an improvement.

(C)(1) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may acquire by purchase lease, license, or otherwise, real and personal property necessary for the purposes of the department.

(2) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the attorney general, may enter into contracts for the construction, repair, renovation, maintenance, and operation of military or other adjutant general's department property.

(3) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may lease or exchange all or part of any military or other adjutant general's department property or grant easements or licenses, if the lease, exchange, easement, or license is advantageous to the state.

(4) All real property of the adjutant general's department shall be sold in accordance with section 5911.10 of the Revised Code.

(D) Except as otherwise provided in this section, all income from any military or other adjutant general's department property of the state, not made a portion of the company, troop, battery, detachment, squadron, or other organization funds by regulations, shall be credited to the funds for the operation and maintenance of the Ohio organized militia, as the adjutant general directs, in accordance with applicable state and federal law and

regulations and the agreements by which the United States contributes to the cost of operation and maintenance of the Ohio national guard.

Effective Date: 09-18-1997

5913.10 Protection and safety regulations.

(A) The adjutant general may prescribe and enforce regulations for the property referred to in section 5913.09 of the Revised Code, as the adjutant general deems necessary for protection and safety.

(B) In prescribing regulations under division (A) of this section, the adjutant general need not comply with Chapter 111. or 119. of the Revised Code.

Effective Date: 09-18-1997

5913.17 Unauthorized entry or disorderly conduct in encampment.

No person shall enter an encampment of the Ohio organized militia when forbidden to do so, or, having been permitted to enter the encampment, behave in a disorderly manner or shall resist a sentry or guard acting under orders to prevent that entry or disorderly conduct.

Effective Date: 09-18-1997

5913.30 Placement of memorial markers listing POWS/MIAS at highway rest areas.

The chief of the division of soldiers' claims and veterans affairs may establish such committees as he considers necessary to enable the placement at appropriate improved roadside rest areas along highways of the interstate system or the primary system of memorial markers honoring those Ohio residents who are listed by the United States department of defense as a prisoner of war or missing in action from the Korean conflict or the Vietnam conflict.

The committee shall do the following:

(A) Compile a list of Ohio residents who are listed as prisoners of war or missing in action from the Korean conflict or the Vietnam conflict;

(B) Design a memorial marker that, subject to approval by the director of transportation, shall be used uniformly throughout the state at the appropriate rest areas;

(C) Coordinate its efforts with any veterans organization in this state that is incorporated and issued a charter by the congress of the United States or is recognized by the United States department of veterans affairs, or is an auxiliary organization of such a veterans organization;

(D) At the time a marker is installed at a roadside rest area, coordinate a dedication ceremony to honor the persons memorialized at the rest area.

Effective Date: 09-29-1992

5913.99 Penalty.

Whoever violates section 5913.17 of the Revised Code shall be fined not more than five hundred dollars.

Effective Date: 07-22-1994

Chapter 5919 Ohio National Guard

CHAPTER 5919: OHIO NATIONAL GUARD

5919.01 Composition and organization of Ohio national guard.

(A) The Ohio national guard consists of those organizations and units that are, under the laws of the United States and the regulations promulgated under them, prescribed as the portion of the army or air national guard of the United States located and organized within this state according to the locations, branches, organizations, and allotments approved by the governor of this state.

(B) The organizations and units of the Ohio national guard shall conform to and be organized according to the organizational or allowance tables prescribed by the department of the army or air force and by the national guard bureau for the national guard. In case of an emergency or imminent danger of an emergency, the governor, as commander in chief, may increase the size of the Ohio national guard according to the existing regulations governing the armed forces of the United States, as the exigency of the occasion requires. Any organization and increase may be made either pursuant to, or in advance of, any call or order made by the president of the United States.

Effective Date: 09-18-1997

5919.02 Officers appointed by governor.

(A) All commissioned and warrant officers of the Ohio national guard shall be appointed by the governor as commander in chief and shall be commissioned or warranted according to grade under the regulations of the department of the army or air force and the national guard bureau.

(B) No officer shall be commissioned or warranted until the officer has successfully passed tests as to physical, moral, and professional fitness as prescribed by regulations promulgated under federal law for federal recognition as a commissioned or warrant officer.

(C) General officers shall be appointed from the federally recognized eligible commissioned officers of the army or air national guard of this state or of another component of the armed forces of the United States, who have served at least fifteen years as a commissioned officer in the army or air national guard or in another component of the armed forces of the United States, or both.

Effective Date: 09-18-1997

5919.04 Regulations and other publications governing appointments.

(A) The adjutant general may issue regulations and other publications governing the appointment of officers in the Ohio national guard and all other matters as necessary to conform to the requirements made or authorized by congress for participation in federal appropriations for the national guard.

(B) In issuing regulations and other publications under division (A) of this section, the adjutant general need not comply with Chapter 111. or 119. of the Revised Code.

Effective Date: 09-18-1997

5919.05 Commissioned officers of Ohio national guard shall take and subscribe to oath.

Commissioned officers of the Ohio national guard shall take and subscribe to the following oath of office:

"I,, do solemnly swear that I will support and defend the constitution of the United States and the constitution of the state of Ohio, 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 state of Ohio; 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 United States and of the state of Ohio, upon which I am about to enter, so help me God."

Every officer before being commissioned shall take such oath within ten days after his appointment, and unless he does so is deemed to have declined his office and the appointment shall be vacated.

Effective Date: 10-01-1953

5919.06 Persons eligible for commission.

Persons commissioned as officers of the Ohio national guard shall be selected only from the following classes: officers or enlisted men of the national guard; officers, active or retired, reserve officers, and former officers of the armed forces of the United States; persons who hold certificates of eligibility for commission; enlisted men and former enlisted men of the armed forces of the United States who have received an honorable discharge; graduates of the United States military, naval, and air force academies; graduates of the reserve officer training corps; and for the technical branches and services, such other civilians as may be specially qualified for duty therein.

Effective Date: 10-24-1961

5919.07 Warrant officers.

When authorized by the federal government, warrant officers may be appointed by the governor under such regulations as are prescribed by the federal government.

Effective Date: 10-24-1961

5919.071 Federal recognition of commission.

Any person, commissioned or warranted as an officer in the Ohio national guard, shall hold the commission or warrant during the period of the person's federal recognition. The termination or withdrawal by the department of the army or air force of the federal recognition of any commissioned or warrant officer in the army or air national guard of the United States shall terminate the person's commission or warrant in the Ohio national guard.

Effective Date: 09-18-1997

5919.08 Noncommissioned officers.

All noncommissioned officers of the Ohio national guard shall be appointed as prescribed by appropriate armed forces regulations.

Effective Date: 10-24-1961

5919.09 Period of enlistments.

Enlistments in the Ohio national guard shall be for the period prescribed by act of congress and publications of the department of the army or air force and national guard bureau.

Effective Date: 09-18-1997

5919.10 Enlistment contract and oath of enlistment prerequisite for enlisting.

All persons enlisting in the Ohio national guard shall sign an enlistment contract and subscribe to the following oath of enlistment."

"I do hereby acknowledge to have voluntarily enlisted this day of, . . . , as a soldier in the national guard of the United States and of the state of Ohio, for a period of year, under the conditions prescribed by law, 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 state of Ohio, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the president of the United States and of the governor of the state of Ohio, and of the officers appointed over me according to law and the regulations and uniform code of military justice."

This section shall not apply to personnel transferred or assigned to the Ohio national guard under the laws and regulations of the United States.

Effective Date: 05-09-2000

5919.11 Officers authorized to administer oaths.

All commissioned officers and warrant officers of the Ohio national guard and the armed forces of the United States may administer oaths and affirmations in the appointment or enlistment of officers and soldiers of the Ohio national guard.

Effective Date: 06-27-1979

5919.12 Honorable discharge of officer.

A commissioned or warrant officer of the Ohio national guard may be honorably discharged by the governor as commander in chief upon the officer's resignation, in conformity with the requirements of the department of the army or air force and the national guard bureau, but the officer shall not be discharged until the officer has accounted for all state and United States property and all public moneys for which the officer is responsible.

Effective Date: 09-18-1997

5919.13 Retired officers list.

(A) Any commissioned or warrant officer who has served as a member of the Ohio national guard for a period of twenty years, eight of which have been as a commissioned or warrant officer, may at the officer's request, and shall upon termination of the officer's federal recognition, be placed upon the retired list, which shall be kept in the office of the adjutant general.

(B) Retired officers shall receive no compensation from the state for their services except as provided in this section, but may on all occasions of ceremony wear the uniform of their rank.

(C) The adjutant general may detail a retired officer to duty other than in the command of troops, consistent with federal publications. A retired officer then shall receive pay and allowances as prescribed under the department of defense pay manual.

Effective Date: 09-18-1997

5919.14 Determination of fitness of officer.

(A) At any time the moral character, capacity, and general fitness for service of any Ohio national guard officer may be determined by a board of officers, which shall be convened and proceed according to publications of the department of the army or air force and the national guard bureau.

(B) A board of officers convened under division (A) of this section is not a public body subject to section 121.22 of the Revised Code.

Effective Date: 09-18-1997

5919.15 Transfer to inactive national guard.

Commissioned officers, warrant officers, and enlisted personnel of the Ohio national guard may be transferred to the inactive national guard under regulations that the national guard bureau prescribes.

Effective Date: 09-18-1997

5919.16 Discharge of officer.

(A) Commissioned and warrant officers in the Ohio national guard shall be discharged by the adjutant general upon either of the following:

- (1) The officer's resignation;
- (2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.

(B) An officer also may be discharged under any of the following circumstances:

- (1) Pursuant to other federal regulations;
- (2) If absent without leave for three months, upon recommendation of an efficiency board;
- (3) Pursuant to sentence by court-martial;
- (4) If the officer has been convicted of a crime classified as a felony as described in division (D) or (E) of section 2901.02 of the Revised Code.

Effective Date: 09-18-1997

5919.17 Discharge of enlisted person.

(A) An enlisted person discharged from service in the Ohio national guard shall receive a discharge, in writing, in the form and with the characterization prescribed by the army or air force. In time of peace, discharges may be given before the expiration of terms of enlistment, under prescribed regulations, subject to any restrictions contained in publications of the department of the army or air force and the national guard bureau.

(B) On termination of an emergency in which personnel of the Ohio national guard have been called or ordered into federal service by the president of the United States according to the laws of the United States, those persons shall continue to serve in the Ohio national guard until the dates upon which their service obligations entered into before the call or order into the federal service would have expired if uninterrupted.

Effective Date: 09-18-1997

5919.19 Commemorative Ohio national guard service medal.

(A) There is hereby created the commemorative Ohio national guard service medal. The adjutant general shall design the medal and administer the program for its distribution. Former members of the Ohio national guard who have been honorably or medically discharged or released from service in the Ohio national guard are eligible, upon application, to receive the medal.

Eligible persons who apply to receive the medal shall submit to the adjutant general a copy of their DD-214 form or NGB-22 form and a fee in an amount to be determined by the adjutant general. The adjutant general shall set the fee at an amount necessary to cover the cost of producing the medal.

(B) There is hereby created in the state treasury the national guard service medal fund. Fees collected from applicants for the medal as well as any appropriations made by the general assembly for purposes of the medal program shall be paid into the state treasury to the credit of the fund. The fund shall be used to pay for the production of the medal.

Effective Date: 03-30-2006

5919.22 Publications governing discharge of enlisted person.

No enlisted person may be discharged from the Ohio national guard except as provided by publications of the department of the army or air force and the national guard bureau.

Effective Date: 09-18-1997

5919.23 Creation of additional units - drafting.

The commander in chief may, upon the declaration of war, or upon the breaking out of insurrection, or upon the imminence of either, increase the Ohio national guard and the Ohio military reserve by the creation of such additional units as he deems necessary; and he may proceed in such manner as rules prescribe for the drafting into the organized militia of all such portions of the militia of the state as he deems necessary in any such emergency.

Effective Date: 09-23-1985

5919.24 Resisting an order or giving aid to public enemy.

In any case covered by section 5919.23 of the Revised Code, any person who shall in any way hinder, delay or resist the orders of the commander in chief with respect thereto, or who shall give any aid or comfort to the public enemy, or either injure or destroy or attempt to injure or destroy any of the military property of the state, or any public building, means or facility of transportation, or any public work within the state, with intent to impede the military forces of this state, or to assist the public enemy of the state or the United States, shall, upon conviction, be punished in such manner as a court-martial directs.

Effective Date: 10-01-1953

5919.25 Uniforms, arms, and equipment.

The Ohio national guard, as far as practicable, shall be uniformed, armed, and equipped with the same type of uniforms, arms, and equipment as is provided for the United States air force or army.

Effective Date: 09-18-1997

5919.26 Reports.

The adjutant general shall provide by order the reports to be made by officers of the Ohio national guard, which requirements shall, as far as practicable, be upon similar blanks and in similar form to the reports required under the regulations of the government for the armed forces of the United States.

Effective Date: 10-24-1961

5919.27 Bonds of officers.

The adjutant general shall provide the form and fix the amount of the bonds required of officers of the Ohio national guard, and pass upon the sufficiency of the sureties. If a surety bond is given, the premium therefor shall be paid out of the Ohio national guard maintenance fund. The adjutant general may require a new bond to be given if in his opinion the surety upon any existing bond has become insufficient.

Effective Date: 10-01-1953

5919.28 Tactics, field exercises and training.

The system of tactics, field exercises, and training for the United States army or air force shall be the system of tactics, field exercises, and training for the Ohio national guard.

Effective Date: 09-18-1997

5919.29 Governor may order military training or duty.

(A) The governor as commander in chief may order individuals and units of the Ohio national guard to perform any training or duty authorized under the "Act of August 10, 1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716, and under regulations prescribed by the president of the United States, the secretary of defense, the secretary of the army, the secretary of the air force, or the chief of the national guard bureau.

(B) When ordered by the governor to perform training or duty under this section or section 5923.12 of the Revised Code, members of the Ohio national guard shall have the protections afforded to persons on federal active duty by "The Soldiers and Sailors Civil Relief Act of 1940," 54 Stat. 1178, 50 App. U.S.C.A. 501-548 and 560-591, and by the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4301 to 4333.

Effective Date: 09-18-1997

5919.30 Inspections.

(A) Inspection of units of the Ohio national guard shall be conducted under regulations prescribed by the secretary of the army or secretary of the air force and the chief of the national guard bureau.

(B) The adjutant general or an officer acting under the adjutant general's authority may make other inspections considered necessary by the adjutant general.

Effective Date: 09-18-1997

5919.31 Reimbursement of active duty members for life insurance premiums.

(A) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the "Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq. and if the adjutant general determines that the member is ineligible for reimbursement of associated premiums under federal law, the adjutant general shall reimburse the member in an amount equal to the monthly premium paid for each month or part of a month by the member pursuant to the act while being an active duty member.

(B) The adjutant general may request additional money from the controlling board if the adjutant general does not have sufficient available unencumbered funds to reimburse active duty members for life insurance premiums pursuant to this section.

(C) The adjutant general may prescribe and enforce regulations to implement the requirements of this section. In prescribing and enforcing those regulations, the adjutant general need not comply with section 111.15 or Chapter 119. of the Revised Code.

(D) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor, but does not include a member performing full-time Ohio national guard duty or performing special work active duty under the "Act of October 3, 1964," 78 Stat. 999, 32 U.S.C. 502(f).

Effective Date: 09-09-2005; 2006 HB699 12-28-2006

5919.32 Pay and allowances of officers and enlisted personnel.

For satisfactorily performing inactive duty for training, annual training, and active duty for special work, officers and enlisted personnel of the Ohio national guard shall receive pay and allowances from the United States authorized and allowed by the department of defense pay manual, subject to regulations promulgated under it.

Effective Date: 09-18-1997

5919.33 Death benefits.

(A) The adjutant general shall pay a death benefit of one hundred thousand dollars from the appropriations made for the purpose to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing active duty member of the Ohio national guard who dies while performing active duty, if the beneficiary or beneficiaries has or have been so designated in a written statement as prescribed by the adjutant general.

(B) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor, but does not include a member performing full-time Ohio national guard duty or performing special work active duty under the "Act of October 3, 1964," 78 Stat. 999, 32 U.S.C. 502(f).

Effective Date: 09-18-1997; 09-29-2005

5919.34 Ohio national guard scholarship program.

(A) As used in this section:

(1) "Academic term" means any one of the following:

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;

(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;

(c) Spring term, which consists of spring quarter;

(d) Summer term, which consists of summer semester or summer quarter, as appropriate.

(2) "Eligible applicant" means any individual to whom all of the following apply:

(a) The individual does not possess a baccalaureate degree.

(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.

(c) The individual is actively enrolled as a full-time or part-time student for at least six credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at an institution of higher education or in a diploma-granting program at an institution of higher education that is a school of nursing.

(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.

(3) "Institution of higher education" means an Ohio institution of higher education that is state-assisted, that is nonprofit and has received a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of

registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

(4) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(B)(1) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program. For the fiscal year 2000, the number of participants in the program for the fall term is limited to the equivalent of two thousand five hundred full-time participants; the number of participants in the program for the winter term is limited to the equivalent of two thousand five hundred full-time participants; the number of participants in the program for the spring term is limited to the equivalent of one thousand six hundred seventy-five full-time participants; and the number of participants in the program for the summer term is limited to the equivalent of six hundred full-time participants. Except as provided in division (B)(2) of this section for the fiscal year 2001 and succeeding fiscal years, the number of participants in the program for the fall term is limited to the equivalent of three thousand five hundred full-time participants; the number of participants in the program for the winter term is limited to the equivalent of three thousand five hundred full-time participants; the number of participants in the program for the spring term is limited to the equivalent of two thousand three hundred forty-five full-time participants; and the number of participants in the program for the summer term is limited to the equivalent of eight hundred full-time participants.

(2) After the application deadline for any academic term in fiscal year 2001, the adjutant general may request the controlling board, if sufficient appropriated funds are available, to approve the following number of additional participants for that term:

(a) For the fall or winter academic term, up to the equivalent of five hundred additional full-time participants;

(b) For the spring academic term, up to the equivalent of three hundred seventy-five additional full-time participants;

(c) For the summer academic term, up to the equivalent of one hundred twenty-five additional full-time participants.

(C) If the adjutant general estimates that appropriations for all scholarships applied for under this section and likely to be used during an academic term are inadequate for all eligible applicants for that academic term to receive scholarships, the adjutant general shall promptly inform all applicants not receiving scholarships for that academic term of the next academic term that appropriations will be adequate for the scholarships. Any such eligible applicant may again apply for a scholarship beginning that academic term if the applicant is in compliance with all requirements established by this section and the adjutant general for the program. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in division (I) of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(a) If the institution is state-assisted, an amount equal to one hundred per cent of the institution's tuition charges;

(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(c) If the institution is an institution that holds a certificate of registration from the state board of career colleges and schools, the lesser of the following:

(i) An amount equal to one hundred per cent of the total instructional and general charges of the institution;

(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities.

(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

Number of credit hours of enrollment in an academic term	The following number of eligibility units if a semester	The following number of eligibility units if a quarter
12 or more hours	12 units	8 units
9 but less than 12	9 units	6 units
6 but less than 9	6 units	4 units

(2) A scholarship recipient under this section may continue to apply for scholarships under this section until the recipient has accumulated ninety-six eligibility units.

(3) If a scholarship recipient withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that academic term is less than six credit hours, no scholarship shall be paid on behalf of that person for that academic term. Except as provided in division (F)(3) of this section, if a scholarship has already been paid on behalf of the person for that academic term, the adjutant general shall add to that person's accumulated eligibility units the number of eligibility units for which the scholarship was paid.

(F) This division applies to any eligible applicant called into active duty on or after September 11, 2001. As used in this division, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(1) An individual to whom this division applies is eligible for scholarships under this section for those academic terms that were missed or could have been missed as a result

of the individual's call into active duty. Scholarships shall not be paid for the academic term in which an eligible applicant's enlistment obligation ends unless an applicant is eligible under this division for a scholarship for such academic term due to previous active duty.

(2) When an individual to whom this division applies withdraws or otherwise fails to complete courses, for which scholarships have been awarded under this section, because the individual was called into active duty, the institution of higher education shall grant the individual a leave of absence from the individual's education program and shall not impose any academic penalty for such withdrawal or failure to complete courses. Division (F)(2) of this section applies regardless of whether or not the scholarship amount was paid to the institution of higher education.

(3) If an individual to whom this division applies withdraws or otherwise fails to complete courses because the individual was called into active duty, and if scholarships for those courses have already been paid, either:

(a) The adjutant general shall not add to that person's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid and the institution of higher education shall repay the scholarship amount to the state.

(b) The adjutant general shall add to that individual's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid if the institution of higher education agrees to permit the individual to complete the remainder of the academic courses in which the individual was enrolled at the time the individual was called into active duty.

(G) A scholarship recipient under this section who fails to complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard. The attorney general may commence a civil action on behalf of the adjutant general to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death; discharge from the national guard due to disability; or the recipient's enlistment, for a term not less than the recipient's remaining term in the national guard, in the active component of the United States armed forces or the active reserve component of the United States armed forces.

(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual full-time or part-time enrollment of each scholarship recipient listed as enrolled at the institution and return the roster to the adjutant general within thirty days after the first day of the academic term. The adjutant general shall report to the Ohio board of regents the number of students in the Ohio national guard scholarship program at each institution of higher education. The Ohio board of regents shall provide for

payment of the appropriate number and amount of scholarships to each institution of higher education pursuant to division (D) of this section. The adjutant general shall report on a quarterly basis to the director of budget and management, the speaker of the house of representatives, and the president of the senate the number of Ohio national guard scholarship recipients and a projection of the cost of the program for the remainder of the biennium.

(I) The chancellor of the Ohio board of regents and the adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio national guard scholarship program and the procedure by which the Ohio board of regents and the department of the adjutant general may modify the amount of scholarships a member receives based on the amount of other state financial aid a member receives.

(J) Notwithstanding division (A) of section 127.14 of the Revised Code, the controlling board shall not transfer all or part of any appropriation for the Ohio national guard scholarship program.

Effective Date: 04-02-2003

5919.341 National guard scholarship reserve fund.

There is hereby created in the state treasury the national guard scholarship reserve fund. Not later than the first day of July of each fiscal year, the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose. Upon request of the adjutant general, the Ohio board of regents shall seek controlling board approval to establish appropriations as necessary.

The director may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

Effective Date: 09-29-2005

5919.35 Applicability of drug laws.

(A) The stockage, accountability, issuance, and dispensing of any drug, as defined in section 4729.02 of the Revised Code, that is issued to any unit or member of the Ohio national guard is governed exclusively by regulations or other directives prescribed by the United States army or air force and the national guard bureau. Ohio national guard units and personnel are not subject to Chapter 4729. or 3715. of the Revised Code or other statutes or regulations in conflict with military regulations or other directives when acting in furtherance of their official duties.

(B) This section applies despite the order of Ohio national guard units or personnel to state active duty under section 5923.22 of the Revised Code or the fact that accountable officers or employees of the Ohio national guard are employed in a civilian status.

Effective Date: 09-18-1997

Chapter 5920 Ohio Military Reserve

CHAPTER 5920: OHIO MILITARY RESERVE

5920.01 Organization and maintenance of Ohio military reserve.

(A) The governor shall organize and maintain within this state on a cadre or reserve basis military forces capable of being expanded and trained to defend this state whenever the Ohio national guard, or a part thereof, is employed so as to leave this state without adequate defense. In case of an emergency proclaimed by the president, or the Congress of the United States, or the governor, or caused by enemy action or imminent danger thereof, the governor, as commander in chief, shall expand such forces as the exigency of the occasion requires. Such forces shall be organized and maintained under regulations which shall not be inconsistent with such regulations as the secretary of defense prescribes for discipline and training and shall be composed of officers commissioned and assigned, and such able-bodied citizens of the state as are accepted therein. Such forces shall be equipped with suitable uniforms not in violation of federal laws or contrary to the regulations of the secretary of defense. Such forces shall be known as the Ohio military reserve. During the period of organization on a cadre or reserve basis the commander in chief may fix lesser rates of pay for armory drill purposes or for service in encampments and maneuvers. In the event that the regulations of the department of defense are modified so as to recognize the Ohio military reserve as a part of the Ohio national guard not subject to induction into federal service, the laws pertaining to the Ohio national guard shall apply to the Ohio military reserve and it shall be known as a component of the Ohio national guard.

(B) The commander of the Ohio military reserve shall report all expenditures and the use of all funds by the Ohio military reserve to the general assembly. The commander annually shall deliver the report, in writing, within three months of the end of the state fiscal year.

Effective Date: 09-23-1985; 09-29-2005

5920.02 Rules and regulations.

The governor may prescribe rules not inconsistent with the provisions of law governing the enlistment, organization, administration, equipment, and maintenance of the Ohio military reserve. A copy of such rules shall be kept available to the public in the office of the adjutant general.

Effective Date: 09-23-1985

5920.03 Requisition for arms and equipment authorized - state armories.

The governor may requisition from the department of defense, for the use of the Ohio military reserve, arms and equipment that may be in possession and can be furnished by the department, and make available to the corps the facilities of state armories and their equipment and such other state premises and property that are available.

Effective Date: 09-23-1985

5920.04 Exemption from military service.

Sections 5920.01 to 5920.11 of the Revised Code do not authorize the Ohio military reserve, or any part thereof, to be called or ordered as such into the military service of the United States. The military reserve may become a component of the Ohio national

guard and subject to the regulations of the secretary of defense of the United States. The governor may consent to the employment of not more than one half of the military reserve to assist in areas adjacent to the borders of the state. No person shall, by reason of his enlistment or commission in the military reserve, be exempt from military service under any law of the United States.

Effective Date: 09-23-1985

5920.05 Civil organizations not to be enlisted.

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons, or civil group, shall be enlisted in the Ohio military reserve as an organization.

Effective Date: 09-23-1985

5920.06 Qualification for commission or enlistment.

No person shall be commissioned or enlisted in the Ohio military reserve who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, of another state, or of the United States.

Effective Date: 09-23-1985

5920.07 Oath of commissioned officers.

Commissioned officers of the Ohio military reserve shall take and subscribe to the following oath of office:

"I,, do solemnly swear that I will support and defend the constitution of the United States and the constitution of the state of Ohio, 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 governor of the state of Ohio, 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 Ohio military reserve, upon which I am about to enter; and, I do solemnly swear that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence and that during such time that I am a member of the Ohio military reserve, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence, so help me God."

Every officer, before being commissioned shall take the [and] subscribe to such oath within ten days after his appointment, and unless he does so he is deemed to have declined his office and the appointment shall be vacated.

Effective Date: 09-23-1985

5920.08 Enlistment contract - oath of enlistment.

All persons enlisted in the Ohio military reserve shall sign an enlistment contract and take and subscribe to an oath of enlistment as follows:

"I do hereby acknowledge to have voluntarily enlisted this day of,, as a member of the Ohio military reserve for a period of three years, under the conditions prescribed by law, 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 state of Ohio; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the governor of the state of Ohio and of the officers appointed over me according to law and the rules and regulations in accordance therewith."

Effective Date: 05-09-2000

5920.09 Powers of commissioned officers.

All commissioned officers of the Ohio military reserve may administer oaths and affirmations in the discharge of any of the duties pertaining to their offices and in connection with the appointment of officers and the enlistment of members of the military reserve.

Effective Date: 09-23-1985

5920.10 Application of Ohio code of military justice.

Whenever the Ohio military reserve or any part thereof is ordered out for active service by the governor, the Ohio code of military justice shall be in full force in respect to such forces.

Effective Date: 09-18-1997

5920.11 Resignation - discharge - commission of officers vacated.

The governor may accept the resignation of any officer or grant a discharge to any enlisted man of the Ohio military reserve at any time. Commissions of officers of the military reserve shall be vacated by resignation or absence without leave for three months, upon recommendation of an efficiency board, pursuant to sentence of a court-martial, or if such officer has been convicted of an infamous crime.

Effective Date: 09-23-1985

Chapter 5921 Ohio naval militia

CHAPTER 5921: OHIO NAVAL MILITIA

5921.01 Ohio naval militia.

The governor shall organize and maintain within this state on a cadre or reserve basis naval forces capable of being expanded and trained to defend this state whenever the Ohio national guard, or a part thereof, is employed so as to leave this state without adequate defense, and whenever necessary to assist and maintain the public peace in case of a disaster or emergency as determined by the governor. Such forces shall not be used in disturbances that are civil in nature, including but not limited to riots and strikes. Such forces shall be known as the Ohio naval militia. Such forces shall be a part of the organized militia of this state. The Ohio naval militia shall consist of not more than three ship companies as provided in sections 5921.02 to 5921.16 of the Revised Code. In case of an emergency proclaimed by the president or the congress of the United States, or caused by enemy action or imminent danger thereof, the governor, as commander in chief, shall expand such forces as the exigency of the occasion requires.

Effective Date: 01-11-1977

5921.02 Divisions of naval militia.

The Ohio naval militia shall be divided into ship companies and each ship company shall consist of not less than two or more than three divisions.

Effective Date: 01-11-1977

5921.03 Officers.

Each ship company and each division shall be allowed such commissioned officers, warrant officers, and enlisted members as are prescribed by the department of the navy for similar naval organizations, or as the exigencies of the service require.

Effective Date: 01-11-1977

5921.04 Selection and rank - oath of office.

Commissioned officers and warrant officers of the Ohio naval militia shall be chosen, commissioned, and take rank as provided for the Ohio national guard, following the regulations and customs of the United States navy.

Commissioned officers and warrant officers of the Ohio naval militia shall take and subscribe to the following oath of office:

"I,, do solemnly swear that I will support and defend the constitution of the United States and the constitution of the state of Ohio, 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 governor of the state of Ohio; 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 Ohio naval militia upon which I am about to enter; and, I do solemnly swear that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence, so help me God."

Every officer, before being commissioned shall take and subscribe to such oath within ten days after his appointment, and unless he does so he is deemed to have declined his office and the appointment shall be vacated.

All commissioned officers and warrant officers of the Ohio naval militia may administer oaths and affirmations in the discharge of any of the duties pertaining to their offices and in connection with the appointment of officers and the enlistment of members of the Ohio naval militia.

Effective Date: 01-11-1977

5921.05 Enlisted members - oath of enlistment.

Enlisted members shall be enlisted according to regulations prescribed by the department of the navy for the governing of similar naval organizations.

All persons enlisted in the Ohio naval militia shall sign an enlistment contract and take and subscribe to an oath of enlistment as follows:

"I do hereby acknowledge to have voluntarily enlisted this day of,, as a member of the Ohio naval militia for a period of three years, under the conditions prescribed by law, 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 state of Ohio; that I will serve them honestly and faithfully against all their enemies

whomsoever; and that I will obey the orders of the governor of the state of Ohio and of the officers appointed over me according to law and the rules in accordance therewith.”

Effective Date: 05-09-2000

5921.06 Uniform.

The uniform of the commissioned officers, warrant officers, petty officers and enlisted men of the Ohio naval militia shall be suitable, but not in violation of the laws of the United States or contrary to regulations of the department of the navy.

Effective Date: 10-02-1953

5921.07 Drill and instruction.

The Ohio naval militia shall assemble for drill and instruction at such times and places and during such periods of time as the governor prescribes.

Effective Date: 10-02-1953

5921.08 Tours.

Each ship company shall make only such tours of duty afloat or ashore as the governor orders.

Effective Date: 01-11-1977

5921.09 U.S. navy regulations and customs.

The Ohio naval militia shall be organized, governed, drilled, and instructed in accordance with the regulations and customs provided for the navy of the United States, and Chapter 5924. of the Revised Code, together with the orders of the governor.

Effective Date: 09-18-1997

5921.10 Governor may prescribe rules.

The governor may prescribe rules not inconsistent with the provisions of law governing the enlistment, organization, administration, equipment, and maintenance of the Ohio naval militia. A copy of such rules shall be kept available to the public in the office of the adjutant general.

Effective Date: 01-11-1977

5921.11 Governor may requisition arms, equipment and facilities.

The governor may requisition from the department of defense, for the use of the Ohio naval militia, arms and equipment that may be in possession and can be furnished by the department, and make available to the Ohio naval militia the facilities of state armories and their equipment and such other state premises and property that are available.

Effective Date: 01-11-1977

5921.12 Federal military service.

Sections 5921.01 to 5921.16 of the Revised Code do not authorize the Ohio naval militia, or any part thereof, to be called or ordered as such into the military service of the United States. The naval militia may become a component of the Ohio national guard. The governor may consent to the employment of not more than one-half of the naval militia to assist in areas adjacent to the borders of the state. No person shall, by reason of his enlistment, warrant or commission in the naval militia, be exempt from militia service under any law of the United States.

Effective Date: 01-11-1977

5921.13 Resignation - discharge.

The governor may accept the resignation of any commissioned officer or warrant officer or grant a discharge to any enlisted member of the Ohio naval militia at any time. Commissions or warrants of officers of the naval militia shall be vacated by resignation or absence without leave for three months, upon recommendation of an efficiency board, pursuant to sentence of a court martial or if such officer has been convicted of an infamous crime.

Effective Date: 01-11-1977

5921.14 No enlistment by organization.

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons, or civil group, shall be enlisted in the Ohio naval militia as an organization.

Effective Date: 01-11-1977

5921.15 Compensation.

The officers and enlisted men of the Ohio naval militia shall receive from the state the same pay, allowances, benefits, and privileges, in every respect, as are allowed the officers and enlisted men of corresponding rank and grade of the Ohio military reserve, provided such pay or supplies as provided by the department of defense shall be deducted therefrom.

Each ship company of the Ohio naval militia shall receive the same allowances for incidental expenses, as are allowed the headquarters of a separate battalion of the Ohio military reserve, and each division, the same allowance in every respect as a company of infantry.

Effective Date: 09-23-1985

Chapter 5923 Organized Militia

CHAPTER 5923: ORGANIZED MILITIA

5923.01 State militia membership - limitation of troops.

(A) The Ohio organized militia consist of all citizens of the state who are not permanently handicapped, as handicapped is defined in section 4112.01 of the Revised Code, who are more than seventeen years, and not more than sixty-seven years, of age unless exempted as provided in section 5923.02 of the Revised Code, and who are members of one of the following:

- (1) The Ohio national guard;
- (2) The Ohio naval militia;

(3) The Ohio military reserve.

(B) The Ohio national guard, including both the Ohio air national guard and the Ohio army national guard, the Ohio naval militia, and the Ohio military reserve are known collectively as the Ohio organized militia.

(C) The Ohio naval militia and the Ohio military reserve are known collectively as the state defense forces.

(D) The unorganized militia consists of those citizens of the state as described in division (A) of this section who are not members of the Ohio organized militia.

(E) No troops shall be maintained in time of peace other than as authorized and prescribed under the "Act of August 10, 1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716. This limitation does not affect the right of the state to the use of its organized militia within its borders in time of peace as prescribed by the laws of this state. This section does not prevent the organization and maintenance of police.

Effective Date: 09-18-1997

5923.02 Persons exempt from military service.

(A) The following persons, if subject to duty in the Ohio organized militia, may be exempted by the adjutant general from duty on request:

- (1) The vice-president of the United States;
- (2) The officers, judicial and executive, of the departments of the state and of the United States, and the members of the general assembly, without regard to age;
- (3) Members of the armed forces of the United States or their reserve components;
- (4) Customhouse clerks;
- (5) Employees of the United States postal service;
- (6) Workers employed in armories, arsenals, or naval shipyards of the United States;
- (7) Pilots on the navigable waters of the United States;
- (8) Mariners licensed by the United States.

(B) Any person because of religious belief or other moral conviction held as a matter of conscience may claim exemption from Ohio organized militia service.

Effective Date: 09-18-1997

5923.03 Membership of Ohio national guard, Ohio military reserve, and Ohio naval militia.

(A) The Ohio national guard consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio national guard, all as prescribed by publications of the department of the army or air force and the national guard bureau for the national guard as prescribed by Chapter 5919. of the Revised Code.

(B) The Ohio military reserve consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio military reserve as prescribed by Chapter 5920. of Revised Code.

(C) The Ohio naval militia consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio naval militia as prescribed by Chapter 5921. of the Revised Code.

Effective Date: 09-18-1997

5923.04 Appointment of officers in Ohio military reserve.

All commissioned officers of the Ohio military reserve shall be appointed by the governor as commander in chief.

Effective Date: 09-23-1985

5923.05 Paid military leave for permanent public employees.

(A)(1) Permanent public employees who are members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, are entitled to a leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services.

(2) As used in this section:

(a) "Calendar year" means the year beginning on the first day of January and ending on the last day of December.

(b) "Month" means twenty-two eight-hour work days or one hundred seventy-six hours within one calendar year.

(c) "Permanent public employee" means any person holding a position in public employment that requires working a regular schedule of twenty-six consecutive biweekly pay periods, or any other regular schedule of comparable consecutive pay periods, which is not limited to a specific season or duration. "Permanent public employee" does not include student help; intermittent, seasonal, or external interim employees; or individuals covered by personal services contracts.

(d) "State agency" means any department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of any function of state government, the general assembly, all legislative agencies, the supreme court, the court of claims, and the state-supported institutions of higher education.

(e) "Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia pursuant to Chapter 5923. of the Revised Code. "Service in the uniformed services" includes also the period of time for which a person is absent from a position of public or private employment for the purpose of an examination to determine the fitness of the person to perform any duty described in this division.

(f) "Uniformed services" means the armed forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time national guard

duty, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency.

(B) Except as otherwise provided in division (D) of this section, any permanent public employee who is employed by a political subdivision, who is entitled to the leave provided under division (A) of this section, and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the president of the United States, because of an act of congress, or because of an order to perform duty issued by the governor pursuant to section 5919.29 of the Revised Code is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the lesser of the following:

(1) The difference between the permanent public employee's gross monthly wage or salary as a permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowances received that month;

(2) Five hundred dollars.

(C) Except as otherwise provided in division (D) of this section, any permanent public employee who is employed by a state agency, who is entitled to the leave provided under division (A) of this section, and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the president of the United States, because of an act of congress, or because of an order to perform duty issued by the governor pursuant to section 5919.29 or 5923.21 of the Revised Code is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence, the difference between the permanent public employee's gross monthly wage or salary as a permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowances received that month.

(D) No permanent public employee shall receive payments under division (B) or (C) of this section if the sum of the permanent public employee's gross uniformed pay and allowances received in a pay period exceeds the employee's gross wage or salary as a permanent public employee for that period or if the permanent public employee is receiving pay under division (A) of this section.

(E) Any political subdivision of the state, as defined in section 2744.01 of the Revised Code, may elect to pay any of its permanent public employees who are entitled to the leave provided under division (A) of this section and who are called or ordered to the uniformed services for longer than one month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the president or an act of congress, such payments, in addition to those payments required by division (B) of this section, as may be authorized by the legislative authority of the political subdivision.

(F) Each permanent public employee who is entitled to leave provided under division (A) of this section shall submit to the permanent public employee's appointing authority the published order authorizing the call or order to the uniformed services or a written statement from the appropriate military commander authorizing that service, prior to being credited with that leave.

(G) Any permanent public employee of a political subdivision whose employment is governed by a collective bargaining agreement with provision for the performance of service in the uniformed services shall abide by the terms of that collective bargaining agreement with respect to the performance of that service, except that no collective

bargaining agreement may afford fewer rights and benefits than are conferred under this section.

Effective Date: 12-13-2001; 03-30-2006; 2008 SB289 08-22-2008

5923.051 State employees called to active duty continuation or reactivation of health benefit coverage.

Notwithstanding sections 1751.54, 3923.381 , and 3923.382 of the Revised Code, the state and any agency, authority, commission, or board of the state, at the request of any person who is employed by the state or any of those entities who is called or ordered to duty as described in division (C) of section 5923.05 of the Revised Code, or at the request of the spouse or dependent of such a person, shall continue or reactivate the health, medical, hospital, dental, vision, and surgical benefits coverage of the person, whether provided by an insurance company, health insuring corporation, or other health plan or entity, for the duration of the time the person is on duty as described in that division. The person, or the spouse or dependent of the person, who requests the continuation or reactivation of the coverage and the employing state or state entity are each liable for payment of the same costs for the coverage as if the person were not on a leave of absence.

Effective Date: 12-13-2001

5923.09 Compensation for attendance at drill.

Each enlisted member and each commissioned or warrant officer of the Ohio military reserve or Ohio naval militia, if funds are appropriated for this purpose by the general assembly, may be paid at rates to be prescribed by the adjutant general but not exceeding one-thirtieth of the monthly base pay of the member's or officer's grade, as is provided for enlisted members or commissioned or warrant officers of the armed forces of the United States under the department of defense pay manual, for each authorized regular drill attended, to be paid monthly.

Effective Date: 09-18-1997

5923.10 Lost, damaged, or destroyed equipment or property - payment of shortage.

(A) If any enlisted member in the Ohio organized militia willfully, maliciously, purposely, or through carelessness or neglect, permits any of the arms, equipment, or other property issued to the enlisted member belonging to the state or the United States, to become lost, damaged, or destroyed, the commanding officer of the enlisted member's company, troop, battery, detachment, or other organization shall charge the value of the lost, damaged, or destroyed arms, equipment, or other property against any pay due the enlisted member under rules prescribed by the department of defense or the adjutant general.

(B) All property of the United States issued to a unit or member of the Ohio national guard shall be accounted and recouped for as provided by the regulations prescribed by the army or the air force and the national guard bureau, as appropriate and as supplemented by the adjutant general.

(C) Notwithstanding any contrary provisions of Chapter 2716. of the Revised Code, all allowances and pay provided for officers and enlisted members of the Ohio organized militia shall be subject to the payment of any shortage of or injury to state or United

States property or funds for which those officers or enlisted members are responsible or accountable.

Effective Date: 09-18-1997

5923.12 Pay and allowances for state active duty - protections afforded members.

When ordered to state active duty by the governor, for which duty federal basic pay and allowances are not authorized, members of the organized militia of Ohio shall receive the same pay and allowances for each day's service as is provided for commissioned officers, warrant officers, noncommissioned officers, and enlisted personnel of like grade and longevity in the armed forces of the United States, together with the necessary transportation, housing, and subsistence allowances as prescribed by the United States department of defense pay manual, or an amount not less than seventy-five dollars per day as base pay for each day's duty performed, whichever is greater.

When ordered by the governor to perform training or duty under this section or section 5919.29 of the Revised Code, members of the Ohio national guard shall have the protections afforded to persons on federal active duty by "The Soldiers and Sailors Civil Relief Act of 1940," 54 Stat. 1178, 50 App. U.S.C.A. 501-548 and 560-591.

Effective Date: 09-29-1994

5923.13 Regulations, bonds, and reports.

The adjutant general shall make such regulations, require such bonds and reports, and furnish such blank forms as he deems necessary to carry out sections 5923.09 and 5923.12 of the Revised Code.

Effective Date: 10-24-1961

5923.14 Method of payments.

Payments under sections 5923.09 and 5923.12 of the Revised Code shall be made on such forms as directed by and upon the voucher of the adjutant general out of moneys in the treasury appropriated for that purpose. The necessary commissary and quartermaster stores, medical supplies, and transportation for the troops in service, and while attending annual field training and the transportation and subsistence of organizations and units of the organized militia representing the state officially on occasions of ceremony within or without the state, shall be contracted for by the proper departmental officers and paid for in like manner.

Effective Date: 10-24-1961

5923.141 State insurance fund payment.

Upon receipt of the certification from the administrator of the bureau of workers' compensation as provided by section 4123.024 of the Revised Code, the adjutant general shall request from the controlling board the amount certified. The adjutant general shall request the director of budget and management to provide for payment to the state insurance fund of a sum equal to the amount transferred by the controlling board.

Effective Date: 07-01-1985

5923.16 Military stores.

The adjutant general shall direct the assistant quartermaster general in the procurement, accounting, and maintenance of all military stores purchased by the state. He shall direct the issue of such stores to the organizations and units of the Ohio national guard or the Ohio military reserve, and the return of such stores from the organizations and units, and provide for the collection and recovery of arms and equipment in the possession of any person not authorized to retain them.

Effective Date: 09-23-1985

5923.17 Purchase and custody of equipage - care of stores - credit for lost property.

The adjutant general, after the appropriations are made for that purpose, may purchase and keep ready for use, or issue to the Ohio national guard or the Ohio military reserve, as the best interests of the service require, such amount and kind of camp and garrison equipage as are necessary. He shall see that all military stores, both the property of the state and of the United States, are properly cared for and kept in good order ready for use, and that property issued is properly accounted for by each organization and unit. Each organization and unit shall be entitled to credit for property actually lost, as determined by survey as provided for in section 5923.18 of the Revised Code.

Effective Date: 09-23-1985

5923.18 Unserviceable military stores.

When military stores belonging to the state become unserviceable, the adjutant general may convene a board of survey consisting of not less than three commissioned officers of the Ohio national guard or the Ohio military reserve as the adjutant general deems proper, who shall inspect such property, and if it is found unserviceable, condemn it.

Effective Date: 09-23-1985

5923.19 Sale or exchange of condemned stores.

The adjutant general may sell condemned military stores belonging to the state, the sums realized from the sales to be turned into the state treasury, to be credited to any fund appropriated for the use of the Ohio national guard or the Ohio military reserve as determined at the time by the adjutant general. He may exchange such condemned stores for such other military stores as the interests of the service require, for the use of the Ohio national guard or the Ohio military reserve, as determined by the adjutant general.

Effective Date: 09-23-1985

5923.20 Annual appropriations and allowances.

Upon the request of the adjutant general, there shall be appropriated and allowed annually such sums as the adjutant general shall determine to be necessary for the care of military property and other incidental expenses of each organization and unit of the Ohio national guard.

The sums provided for in this section shall be paid to the commanding officer of each organization and unit, who shall account for the funds in the manner directed by the commander in chief. No part of such money shall be paid to any organization or unit until all returns and reports required by law and orders have been filed with the adjutant general. The adjutant general may withhold all or any portion of said sum from any organization or unit found to be deficient.

Effective Date: 10-24-1961

5923.21 Call to service by governor.

(A) The Ohio organized militia may be called by the governor by proclamation to aid the civil authorities to do any of the following:

- (1) Execute the laws of this state;
- (2) Suppress insurrection;
- (3) Repel invasion;
- (4) Act in the event of a disaster, as defined in section 5502.21 of the Revised Code, within the state;
- (5) Promote the health, safety, and welfare of the citizens of this state.

(B) In all cases, the organized militia shall be called to state active duty before the unorganized militia.

(C) The governor's proclamation under division (A) of this section shall specify the statutory basis of the call.

Effective Date: 09-18-1997

5923.22 Order of unit, part or individual to aid civil authorities.

(A) Whenever the governor determines that the organized militia may lawfully be called to duty under section 5923.21 of the Revised Code, the governor may order any unit of the organized militia, or any part or individual of the organized militia, to state active duty to aid civil authorities.

(B) The orders issued by the adjutant general on behalf of the governor shall specify the individuals, units, or parts of the organized militia ordered to state active duty, the estimated duration of the duty, and the place and time of reporting.

(C) No member of the organized militia ordered to state active duty pursuant to this section shall fail to obey such an order.

Effective Date: 09-29-1994

5923.23 Contents of order to aid civil authorities - command and control.

(A) When members of the organized militia are called to state active duty by the governor, the orders shall state in general terms the objectives to be accomplished and with which agencies of civil authority the accomplishment of these objectives shall be coordinated. The missions of a commander of any unit or units called to state active duty in aid to civil authority shall be as directed by the appropriate civil authorities. The mode and means of accomplishing those missions shall at all times remain with their commander.

(B) The command and control of units or members of the organized militia shall at all times remain with their commanding officers.

Effective Date: 09-29-1994

5923.231 Proclamation of martial law.

After issuing an order to duty pursuant to section 5923.21 of the Revised Code, the governor, if in his judgment any breakdown of law and order impends, may by proclamation, declare that the organized militia under the command of the governor shall execute the laws and keep the peace in a designated area. Under these circumstances, any arrest and detention of civilians by military authorities shall be for the purpose of escorting such civilians to civil authorities. The governor shall, by subsequent proclamation, order cessation of the duties entrusted to the militia when, in his judgment, his original proclamation is no longer required.

Effective Date: 09-01-1967

5923.27 Privileges and immunities while on state active duty.

(A) No member of the organized militia called to state active duty shall be arrested on any warrant, except for treason or felony, while going to, performing, or returning from such duty.

(B) A member of the organized militia called to state active duty to aid the civil authorities in executing the laws of the state, suppressing insurrection, repelling invasion, or promoting the health, safety, and welfare of the citizens of this state shall be considered a law enforcement officer, as that term is defined in section 2901.01 of the Revised Code, and shall be afforded the privileges and immunities afforded persons under sections 109.361 and 2305.23 of the Revised Code.

(C) A member of the organized militia called to state active duty in the event of a disaster, as defined in section 5502.21 of the Revised Code, shall have the privileges and immunities afforded persons under sections 109.361 and 5502.30 of the Revised Code.

Effective Date: 10-29-1995

5923.28 Conformity of military laws with federal laws and regulations.

(A) Except as provided in division (B) of this section, the military laws of this state shall conform to all laws of and regulations promulgated by the United States affecting the same subject and anything to the contrary is void if the subject matter has been acted on by the army, air force, or national guard bureau.

(B) All matters relating to the organization, discipline, and government of the state defense forces, not otherwise provided by the laws of this state or the rules promulgated under those laws, shall be decided by the custom, regulations, and usage of the armed forces of the United States.

Effective Date: 09-18-1997

5923.29 Inventory of unexpendable state military property - additions or deductions.

The adjutant general shall cause an inventory to be made of all unexpendable military property of each organization of the organized militia which is purchased from state funds or otherwise belongs to the state, and a separate inventory of the property received from

the federal government. Said inventories shall be kept on file in the office of the adjutant general and shall be open to public inspection during regular office hours. Additions to or deductions from said inventories shall be made so that each inventory sets forth at all times a correct list of all property owned by or in possession of each organization of the organized militia. Whenever deductions are made from such inventories, the time and manner of disposition of the property shall be entered.

Effective Date: 10-01-1953

5923.30 Action against officer unable to account properly for money or property.

Whenever it is ascertained by the adjutant general or the auditor of state that any officer of the organized militia is unable to properly account for the property or moneys in his possession he shall give immediate notice thereof to the attorney general for action against such officer and his bondsmen, and the attorney general shall bring such action.

Effective Date: 10-01-1953

5923.31 Persuading member of militia to disregard duty prohibited.

No person shall advise or endeavor to persuade an officer or soldier of the organized militia not to appear at the place of assembly when such officer or soldier has been lawfully required to do so in conformity with the laws for the suppression of tumults, riots, and mobs, or shall advise or endeavor to persuade such officer or soldier to refuse obedience to an order issued in such case.

Effective Date: 10-24-1961

5923.32 Disposing of military property belonging to state prohibited.

No person shall sell, dispose of, conceal, detain, or refuse to give up arms or property belonging to this state, or money or other property belonging to an organization or unit organized according to law.

Effective Date: 10-24-1961

5923.33 Uniforms and insignia worn unlawfully.

No person shall wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of rank, grade, or office, such as by law or by general regulation promulgated or prescribed for the use of the organized militia of Ohio.

This section does not apply to a member of the army or navy of the United States, the organized militia of Ohio or any other state, members of associations composed of soldiers honorably discharged from the service of the United States or any members of the order of sons of veterans, and the faculty and students of educational institutions where military science is prescribed as a part of the course of instruction.

Effective Date: 10-01-1953

5923.34 Government and discipline.

The organized militia shall be governed and disciplined by the military laws of the state, the orders of the commander in chief, acts of congress of the United States pertaining to the organized militia enacted pursuant to the constitution of the United States, and the Ohio code of military justice. Such government and discipline shall conform to the system of discipline and administration prescribed for the armed forces of the United States insofar as the same are compatible with the laws of this state.

Effective Date: 10-24-1961

5923.36 Limitation of actions.

Any civil proceedings brought against any member of the organized militia alleging an act of willful or wanton misconduct, which alleged act was performed when the member was under duty status pursuant to state authority at a time of public danger, shall be commenced within two years of the performance of such alleged act or be forever barred.

Effective Date: 09-01-1967

5923.37 No liability for negligence while on state active duty.

(A) No member of the organized militia ordered to state active duty shall be liable in negligence for any act performed within the scope of his military duties. Any action alleging that such a militia member's conduct was outside the scope of his employment, was malicious, was in bad faith, or was wanton or reckless shall first be filed against the state in the court of claims under section 2743.02 of the Revised Code.

(B) Any member of the organized militia rendering medical, nursing, or dental care, or assisting in rendering such care, after being ordered to state active duty shall be deemed an officer or employee of the state under section 109.36 of the Revised Code.

(C) Any member of the organized militia ordered to state active duty under section 5923.22 of the Revised Code or ordered to duty under section 5919.29 of the Revised Code who is qualified to perform on federal active duty under Title 10, United States Code, in a particular profession, discipline, or skill as a health care provider shall be exempt from the statutes, regulations, and licensing requirements otherwise in force under the laws of this state, with respect to his profession, specialty, or skill at such times as he is serving in any military status, duly authorized under the laws of this state or of the United States, or both, and is performing his profession, specialty, or skill under regulations prescribed by the executive authority of the United States or of this state, and is functioning within the scope of his employment.

Effective Date: 09-29-1994

5923.99 Penalty.

(A) Whoever violates section 5923.31 of the Revised Code shall be fined not more than one thousand dollars or imprisoned not more than six months, or both.

(B) Whoever violates section 5923.32 of the Revised Code shall be fined not more than five hundred dollars or imprisoned not more than three months, or both.

(C) Whoever violates section 5923.33 of the Revised Code shall be fined not less than ten nor more than one hundred dollars.

Effective Date: 09-29-1994

CHAPTER 5924: CODE OF MILITARY JUSTICE

5924.01 Code of military justice definitions.

As used in Chapter 5924. of the Revised Code unless the context otherwise requires:

(A) "Organized militia" means the Ohio national guard, the Ohio naval militia, and the Ohio military reserve.

(B) "Officer" means commissioned or warrant officer.

(C) "Commissioned officer" includes a commissioned warrant officer.

(D) "Commanding officer" includes only commissioned officers.

(E) "Superior commissioned officer" means a commissioned officer superior in rank or command.

(F) "Enlisted member" means a person in an enlisted grade.

(G) "Grade" means 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.

(H) "Rank" means the order of precedence among members of the armed forces.

(I) "Active state duty" means full-time duty in the active military service of the state under an order of the governor issued pursuant to authority vested in him by law, and while going to and returning from such duty.

(J) "Duty status other than active state duty" means any other types of duty and while going to and returning from such duty.

(K) "Military court" means a court-martial, a court of inquiry, or a provost court.

(L) "Military judge" means an official of a general or special court-martial detailed in accordance with section 5924.26 of the Revised Code.

(M) "Law specialist" means a commissioned officer of the organized naval militia of the state designated for special duty.

(N) "Legal officer" means any commissioned officer of the organized naval militia of the state designated to perform legal duties for a command.

(O) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the organized militia.

(P) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused.

(Q) "Military" refers to any or all of the armed forces.

(R) "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.

(S) "May" is used in a permissive sense. The words "no person may" mean that no person is required, authorized, or permitted to do the act prescribed.

(T) "Shall" is used in an imperative sense.

(U) "Code" means the Ohio code of military justice, as set forth in Chapter 5924. of the Revised Code.

Effective Date: 09-23-1985

5924.02 Persons subject to code.

The following persons who are not in federal service are subject to this code:

(A) Members of the organized militia;

(B) Persons on the state reserve list or the state retired list;

(C) All other persons lawfully ordered to duty in or with the organized militia, from the dates they are required by the terms of the order or other directive to obey the same.

Effective Date: 10-10-1961

5924.03 Jurisdiction to court-martial discharged personnel.

(A) Each person discharged from the organized militia who is later charged with having fraudulently obtained his discharge is, subject to section 5924.43 of the Revised Code, subject to trial by court-martial on that charge and is, after apprehension, subject to this code while in the custody of the military for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this code committed before the fraudulent charge.

(B) No person who has deserted from the organized militia may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

Effective Date: 10-10-1961

5924.04 Dismissed officer's right to trial by court-martial.

(A) If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he 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, on behalf of the governor, shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(B) If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this code, the adjutant general, on behalf of the governor, shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(C) If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(D) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, he has no right to trial under this section.

Effective Date: 10-10-1961

5924.05 Territorial applicability.

(A) This code applies throughout the state. It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(B) Courts-martial and courts of inquiry may be convened and held in units of the organized militia while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

Effective Date: 10-10-1961

5924.06 State judge advocates - assistant state judge advocates.

(A) The governor, on the recommendation of the adjutant general, shall appoint an officer of the organized militia as state judge advocate, who shall be a member of the bar of the supreme court of this state and shall have been a member of the bar of the state and a member of the organized militia for at least five years.

(B) The adjutant general may appoint as many assistant state judge advocates as he shall deem necessary, which assistant state judge advocates shall be officers of the organized militia and members of the bar of the state.

(C) The state judge advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(D) The provisions of section 109.02 of the Revised Code shall not be a restriction upon the appointment and duties as provided in this section.

(E) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the state judge advocate.

(F) No person who has acted as member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate or legal officer to any reviewing authority upon the same case.

Effective Date: 07-17-1970

5924.07 Apprehension.

(A) Apprehension is the taking of a person into custody.

(B) Any person authorized by this code, or by regulations issued pursuant thereto, to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(C) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

Effective Date: 10-10-1961

5924.08 Authority to apprehend deserters.

Any civil officer having authority to apprehend offenders under the laws of the United States, or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the organized militia and deliver him into the custody of the organized militia. If an offender is apprehended outside the state, his return to the area must be in accordance with normal extradition procedures, or reciprocal agreement.

Effective Date: 10-10-1961

5924.09 Arrest or confinement.

(A) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(B) An enlisted member 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 code or through any person authorized by this code 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.

(C) A commissioned officer or a warrant officer may be ordered apprehended or 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 apprehended or into arrest or confinement may not be delegated.

(D) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(E) Nothing in this section shall be construed to limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Effective Date: 10-10-1961

5924.10 Confinement.

(A) Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed into confinement. When any person subject to this code is placed into arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

(B) Confinement other than in a guard house, whether before, during, or after trial by a military court, shall be executed in civil jails or prisons designated by the governor or by such person as he may authorize to act.

Effective Date: 10-06-1994

5924.11 Prisoners.

(A) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail or prison designated under section 5924.10 of the Revised Code, may refuse to receive or keep any prisoner committed to his charge, when the committing person furnishes a statement, signed by him, of the offense charged against the prisoner.

(B) Every commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail or prison designated under section 5924.10 of the Revised Code, to whose charge a prisoner is committed, shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

Effective Date: 10-06-1994

5924.12 Confinement with enemy prisoners or foreign nationals.

No person subject to this code may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.

Effective Date: 10-10-1961

5924.13 Punishment before trial.

Subject to section 5924.57 of the Revised Code, no person, 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 him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline, and may be required to perform such labor as may be necessary for the policing and sanitation of his living quarters and mess facilities and the area immediately adjacent thereto.

Effective Date: 10-10-1961

5924.14 Delivery to civil authority for trial.

(A) Under such regulations as may be prescribed under this code, a person on active state duty subject to this code who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(B) 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, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

Effective Date: 10-10-1961

5924.15 Nonjudicial punishment.

Under such regulations as the governor may prescribe, and under such additional regulations as may be prescribed by the adjutant general of Ohio, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to, or embarked in a vessel, punishment may not be imposed upon any person subject to this code under this section if such person has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. Subject to the foregoing, any commanding officer, and for the purposes of this section the adjutant general of Ohio, may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(A) Upon officers of the commanding officer's command:

(1) Restriction to certain specified limits, with or without suspension from duty, for not more than thirty consecutive days;

(2) If imposed by the governor, the adjutant general, the commanding officer of a force of the organized militia, or the commanding general of a division:

(a) Arrest in quarters for not more than thirty consecutive days;

(b) Fine or forfeiture of not more than one-half of one month's pay per month for two months, or the sum of one hundred fifty dollars, whichever is greater;

(c) Restriction to certain specified limits, with or without suspension from duty, for not more than sixty consecutive days;

(d) Detention of not more than one-half of one month's pay per month for three months, or the sum of two hundred twenty-five dollars, whichever is greater.

(B) Upon other military personnel of the commanding officer's command:

(1) If imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days;

(2) Correctional custody for not more than seven consecutive days;

(3) Fine or forfeiture of not more than seven days' pay, or the sum of twenty-five dollars, whichever is greater;

(4) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(5) Extra duties, including fatigue or other duties, for not more than fourteen consecutive days;

(6) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(7) Detention of not more than fourteen days' pay, or the sum of fifty dollars, whichever is greater;

(8) If imposed by an officer of the grade of major or lieutenant commander, or above.

(a) The punishment authorized under division (B)(1) of this section;

(b) Correctional custody for not more than thirty consecutive days;

(c) Fine or forfeiture of not more than one-half of one month's pay per month for two months, or the sum of fifty dollars, whichever is greater;

(d) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in pay grade above E-4 may not be reduced more than two pay grades;

(e) Extra duties, including fatigue or other duties, for not more than forty-five consecutive days;

(f) Restriction to certain specified limits, with or without suspension from duty, for not more than sixty consecutive days;

(g) Detention of not more than one-half of one month's pay per month for three months, or the sum of seventy-five dollars, whichever is greater.

Detention of pay shall be for a stated period of not more than one year, but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, confinement on bread and water or diminished rations, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this section "correctional custody" is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial or civilian court.

(C) An officer in charge may impose upon enlisted members assigned to the unit of which the officer is in charge such of the punishments authorized under divisions (B)(1) to (B)(7) of this section, as the governor or adjutant general may specifically prescribe by regulation.

(D) The officer who imposes the punishment authorized in divisions (A) or (B) of this section, or the officer's successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under divisions (A) or (B) of this section, whether or not executed. In addition, the officer who imposed the punishment may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. The officer who imposed the punishment may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating:

- (1) Arrest in quarters to restriction;
- (2) Confinement on bread and water or diminished rations to correctional custody;
- (3) Correctional custody or confinement on bread and water or diminished rations to extra duties or restriction, or both; or
- (4) Extra duties to restriction;

the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(E) 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. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under division (D) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

- (1) Arrest in quarters for more than seven days;
- (2) Correctional custody for more than seven days;
- (3) Forfeiture of more than seven days' pay;
- (4) Reduction of one or more pay grades from the fourth or a higher pay grade;
- (5) Extra duties for more than fourteen days;
- (6) Restriction for more than fourteen days; or
- (7) Detention of more than fourteen days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate of the Ohio army national guard or the Ohio air national guard, or a law specialist of the Ohio naval organized militia for consideration and advice, and may so refer the case upon appeal from any punishment imposed under divisions (A) or (B) of this section.

(F) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but 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.

(G) The governor or the adjutant general may, by regulation, prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

(H) The punishments imposed pursuant to this section, except fine and forfeiture of pay, shall not extend beyond the termination of the duty status of the individual punished.

Effective Date: 09-18-1997

5924.16 Courts-martial.

(A) In the organized militia not in federal service, there are general, special, and summary courts-martial constituted like similar courts of the army and the air force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

(B) The constitutions of the three kinds of courts-martial are:

(1) General courts-martial, consisting of:

(a) a military judge and not less than five members; or

(b) 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 in writing a court composed only of a military judge and the military judge approves;

(2) Special courts-martial, consisting of:

(a) not less than three members; or

(b) a military judge and not less than three members; or

(c) only a military judge, if one has been detailed to the court, and the accused so requests in writing under the same conditions as those prescribed in division (B)(1)(b) of this section;

(3) Summary courts-martial, consisting of one commissioned officer.

Effective Date: 07-17-1970

5924.17 Jurisdiction of courts-martial.

Each force of the organized militia has court-martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the governor.

Effective Date: 10-10-1961

5924.18 Jurisdiction of general courts-martial.

Subject to section 5924.17 of the Revised Code, general courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under such limitations as the governor may prescribe, adjudge any punishment not forbidden by this code, including the penalty of death when specifically authorized by this code. General courts-martial also have jurisdiction to try any person who by the law of

war is subject to trial by a military tribunal and may adjudge any punishment permitted by the law of war. A general court-martial of the kind specified in division (B)(1)(b) of section 5924.16 of the Revised Code does not have jurisdiction to try any person for any offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case.

Effective Date: 07-17-1970

5924.19 Jurisdiction of special courts-martial.

Subject to section 5924.17 of the Revised Code, special courts-martial shall have jurisdiction to try persons subject to this code for any non-capital offense for which they may be punished under this code. A special court-martial may adjudge any punishment a general court-martial may adjudge, except death, dishonorable discharge, dismissal, confinement for more than six months, hard labor without confinement for more than three months, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than six months. A bad-conduct discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under division (B) of section 5924.27 of the Revised Code was detailed to represent the accused, and a military judge was detailed to the trial. In any case in which a military judge was not detailed to the trial, except when due to physical conditions or military exigencies, the convening authority shall make a written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed.

Effective Date: 07-17-1970

5924.20 Jurisdiction of summary courts-martial.

(A) Subject to section 5924.17 of the Revised Code, summary courts-martial have jurisdiction to try persons subject to this code, except officers and warrant officers, for any offense made punishable by this code.

(B) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial, as may be appropriate.

(C) Summary courts-martial may, under such limitations as the governor may prescribe, adjudge punishment not forbidden by this code, except death, dismissal, dishonorable or bad conduct discharge, confinement for more than one month, hard labor without confinement for more than forty-five days, restriction to specified limits for more than two months, or forfeiture of more than two-thirds of one month's pay.

Effective Date: 07-17-1970

5924.21 Dismissal, dishonorable or bad conduct discharge.

(A) In the organized militia not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor.

(B) A dishonorable discharge, bad conduct discharge, or dismissal shall not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made.

Effective Date: 10-10-1961

5924.22 Convening general courts-martial.

In the organized militia not in federal service, general courts-martial may be convened by the governor.

Effective Date: 10-10-1961

5924.23 Convening special courts-martial.

In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, battle group, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

Effective Date: 10-10-1961

5924.24 Convening summary courts-martial.

(A) In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a division, brigade, regiment, battle group, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(B) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

Effective Date: 10-10-1961

5924.25 Service on courts-martial.

(A) Any commissioned officer of or on duty with the organized militia 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) Any warrant officer of or on duty with the organized militia 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)(1) Any enlisted member of the organized militia 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, but he shall serve as a member of a court only if, before the conclusion of a session called by the military judge under division (A) of section 5924.39 of the Revised Code or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested 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 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.

(2) In division (C) of this section, the word "unit" means any regularly organized body of the organized militia not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one of them.

(D)(1) When it can be avoided, no person subject to this code shall 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 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 is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the state and of appropriate rank, the convening authority shall appoint him as president of a special court-martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

Effective Date: 07-17-1970

5924.26 Military judge.

(A) The authority convening a general court-martial shall, and, subject to regulations promulgated by the governor, the authority convening a special court-martial may, detail a military judge to preside over each open session of the court-martial.

(B) A military judge shall be a commissioned officer who is a member of the bar of this state, or a member of the bar of a federal court, and who is certified to be qualified for such duty by the state judge advocate.

(C) The military judge of a general or special court-martial shall be designated by the state judge advocate or his designee for detail by the convening authority. Unless the court-martial was convened by the governor, neither the convening authority nor his staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed which relates to his performance of duty as a military judge. A commissioned officer who is certified as a military judge of a general court-martial may perform duties other than those relating to his being a military judge of a general court-martial when such duties are assigned to him by or with the approval of the state judge advocate or his designee.

(D) No person is eligible to act as a military judge in a case if he is the accuser, is a witness for the prosecution, has acted as investigating officer, or is a counsel in the same case.

(E) The military judge of a court-martial may not consult with the members of the court, except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

Effective Date: 07-17-1970

5924.27 Trial and defense counsel.

(A) For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate.

No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant 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 may any person who has acted for the defense act later in the same case for the prosecution.

(B) Trial counsel or defense counsel detailed for a general court-martial:

(1) Must be a person who is a member of the bar of the highest court of this state, or a member of the bar of a federal court, or a law specialist; and

(2) Must be certified as competent to perform such duties by the state judge advocate.

(C) In the case of a special court-martial, the accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed by division (B) of this section. If counsel having such qualifications cannot be obtained because of physical conditions or military exigencies, the court may be convened and the trial held, but the convening authority shall make a detailed written statement explaining the reasons, which shall be appended to the record.

Effective Date: 07-17-1970

5924.28 Court reporters and interpreters.

Under such regulations as the governor 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.

Effective Date: 10-10-1961

5924.29 Absent and additional members.

(A) No member of a general or special court-martial shall be absent or excused after the court has been assembled for the trial of the accused except for physical disability, as a result of a challenge, or by order of the convening authority for good cause.

(B) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, 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) Whenever a special court-martial, other than a special court-martial composed of a military judge only, 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. When the new members have been sworn, the trial shall proceed with the new members present as if no evidence had previously been introduced 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, if any, the accused, and counsel for both sides.

(D) If the military judge of a court-martial composed of a military judge only 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 division (B)(1)(b) or division (B)(2)(c) of section 5924.16 of the Revised Code, 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.

Effective Date: 07-17-1970

5924.30 Charges and specifications.

(A) Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this code to administer oaths and shall state:

(1) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(2) That they are true in fact to the best of his knowledge and belief.

(B) 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, and the person accused shall be informed of the charges against him as soon as practicable.

Effective Date: 10-10-1961

5924.31 Self-incrimination.

(A) No person subject to this code may compel any person to incriminate himself or to answer any question, the answer to which may tend to incriminate him.

(B) No person subject to this code may interrogate, or request any statement from an accused or a person suspected of an offense, without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(C) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(D) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

Effective Date: 10-10-1961

5924.32 Investigation.

(A) 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) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be

represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he 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 the 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) 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 division (B) of this section, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he 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 his own behalf.

(D) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.

Effective Date: 10-10-1961

5924.33 Forwarding 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 governor. If that is not practicable, he shall report in writing to the governor the reasons for delay.

Effective Date: 10-10-1961

5924.34 Pre-trial referral of general court-martial charge.

(A) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the state judge advocate for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

(B) If the charges or specifications are not formally correct 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.

Effective Date: 10-10-1961

5924.35 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. In time of peace no person may, against his objection, be brought to trial or be required to participate by himself or with counsel in a session called by the military judge under division (A) of section 5924.39 of the Revised Code, in a general court-martial case within a period of five days after the service of charges upon him, or in a special court-martial within a period of three days after the service of the charges upon him.

Effective Date: 07-17-1970

5924.36 Trial procedure.

The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the governor by regulations, which shall, so far as he 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, but which may not be contrary to or inconsistent with this code.

Effective Date: 10-10-1961

5924.37 Unlawful influence.

(A) No authority convening a general, special, or summary court-martial, nor any other commanding officer, or officer serving on the staff thereof, may 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 proceeding. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal 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. This division does not apply to:

(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, the president of a special court-martial, or counsel.

(B) 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 organized militia is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the organized militia, or in determining whether a member of the organized militia should be retained in an active status, no person subject to this code may, in preparing any such report:

(1) Consider or evaluate the performance of duty of any such member of a court-martial;

(2) Give a less favorable rating or evaluation of any member of the organized militia because of the zeal with which such member, as counsel, represented any accused before a court-martial.

Effective Date: 07-17-1970

5924.38 Duties of trial and defense counsel.

(A) The trial counsel of a general or special court-martial shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(B) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under section 5924.27 of the Revised Code. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the

accused so desires, act as his associate counsel; otherwise they shall be excused by the military judge or by the president of a court-martial without a military judge.

(C) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(D) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section 5924.27 of the Revised Code, 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) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 5924.27 of the Revised Code, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Effective Date: 07-17-1970

5924.39 Convening without members of court present.

(A) 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 5924.35 of the Revised Code, call the court into session without the presence of the members for the following purposes:

(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 code, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) If permitted by regulations prescribed by the governor, holding the arraignment and receiving the pleas of the accused;

(4) Performing any other procedural function which may be performed by the military judge under this code or under rules prescribed pursuant to section 5924.36 of the Revised Code 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.

(B) 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 members 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, in cases in which a military judge has been detailed to the court, the military judge.

Effective Date: 07-17-1970

5924.40 Continuances.

The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

Effective Date: 07-17-1970

5924.41 Challenges.

(A) 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 or, if none, the court, shall determine the relevancy and validity of challenges for cause, and may 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.

(B) Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challeng[e]d except for cause.

Effective Date: 07-17-1970

5924.42 Oaths.

(A) Before performing their respective duties, military judges, interpreters, members of general and special courts-martial, the trial counsel, the assistant trial counsel, the defense counsel, the assistant defense counsel, and reporters shall take an oath or affirmation to perform their duties faithfully. The form of the oath or affirmation, the time and place of the taking thereof, the manner of recording, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations promulgated by the governor. These regulations may provide that an oath or affirmation to faithfully perform 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, law specialist, or other person certified to be qualified or competent for the duty, and if such oath is taken it need not again be taken at the time the judge advocate, law specialist, or other person is detailed to that duty.

(B) Each witness before a military court shall be examined on oath or affirmation.

Effective Date: 07-17-1970

5924.43 Statute of limitations.

(A) A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny, or with murder, may be tried and punished at any time without limitation.

(B) Except as otherwise provided in this section, a person charged with desertion in time of peace or any of the offenses punishable under sections 5924.119 to 5924.132 of the Revised Code, is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(C) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court-martial or punished under section 5924.15 of the Revised Code if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 5924.15 of the Revised Code.

(D) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

Effective Date: 09-10-1963

5924.44 Double jeopardy.

(A) No person may, without his consent, be tried a second time in any military or civil court of the state for the same offense.

(B) 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.

(C) 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.

Effective Date: 10-10-1961

5924.45 Court directed not guilty plea.

(A) If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

(B) A plea of guilty by the accused may not be accepted to any charge or specification alleging an offense for which the death penalty may be adjudged. If a plea of guilty has been accepted by the military judge or by a court-martial without a military judge, a finding of guilty, if permitted by regulations promulgated by the governor, shall be entered immediately without vote and shall constitute the finding of the court. If the plea of guilty is withdrawn prior to announcement of the sentence, the proceedings shall continue as though the accused had pleaded not guilty.

Effective Date: 07-17-1970

5924.46 Opportunity to obtain evidence and witnesses.

(A) 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 may prescribe.

(B) The president of a court-martial or a summary court officer may:

(1) Issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) Issue subpoenas duces tecum and other subpoenas;

(3) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

(C) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state.

Effective Date: 10-10-1961

5924.47 Refusal to appear or testify.

(A) Any person not subject to this code who:

(1) Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(2) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the court of common pleas of the state; and

(3) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state and may be punished in the same manner as if committed before civil courts of the state.

Effective Date: 10-10-1961

5924.48 Contempt - penalty.

A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for thirty days or a fine of one hundred dollars, or both.

Effective Date: 10-10-1961

5924.49 Depositions.

(A) At any time after charges have been signed as provided in section 5924.30 of the Revised Code, any party may take oral or written depositions unless the military judge or court-martial without a military judge 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. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(B) 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) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(D) 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 before any court-martial or in any proceeding before a court of inquiry, if it appears:

(1) That the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit, or beyond the distance of one hundred 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 refused to appear and testify in person at the place of trial or hearing;

(3) That the present whereabouts of the witness is unknown; or

(4) That the deposition was taken in the physical presence of the accused.

Effective Date: 07-17-1970

5924.50 Admissibility of records of courts of inquiry.

(A) In any case not capital and 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, and if the accused was physically present when the testimony was taken.

(B) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(C) Such testimony may also be read in evidence before a court of inquiry or a military board.

Effective Date: 10-10-1961

5924.51 Voting and rulings.

(A) Voting by members of a general or special court-martial on the findings and on the sentence, and by members of a court-martial without a military judge upon questions of challenge, shall be by secret written ballot. The junior member of the court shall in each case 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) The military judge and, except for questions of challenge, the president of a court-martial without a 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, or by the president of a special court-martial, without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a 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 5924.52 of the Revised Code, beginning with the junior in rank.

(C) Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(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 he must 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 state.

(D) Divisions (A), (B), and (C) of this section 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.

Effective Date: 07-17-1970

5924.52 Number of votes required.

(A)(1) No person may be convicted of an offense for which the death penalty is made mandatory by law, except by the concurrence of all members of the court-martial present at the time the vote is taken.

(2) No person may be convicted of any other offense, except as provided in division (B) of section 5924.45 of the Revised Code or by the concurrence of two-thirds of the members present at the time the vote is taken.

(B)(1) No person may be sentenced to suffer death, except by the concurrence of all members of the court-martial present at the time the vote is taken and for an offense in this chapter expressly made punishable by death.

(2) No person may be sentenced to life imprisonment or to confinement for more than ten years, except by the concurrence of three-fourths of the members present at the time the vote is taken.

(3) All other sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(C) All other questions 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, to decrease or lessen 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 for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

Effective Date: 07-17-1970

5924.53 Announcement of findings.

A court-martial shall announce its findings and sentence to the parties as soon as determined.

Effective Date: 10-10-1961

5924.54 Record of proceedings.

(A) Each general court-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 the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this division if the proceedings have resulted in an acquittal of all charges and specifications or, if not affecting a general or flag officer, in a sentence not including discharge and not in excess of that which may otherwise be adjudged by a special court-martial. The record shall contain matters as may be prescribed by regulations of the governor.

(B) Each special and summary court-martial shall keep a separate record of the proceedings in each case, which record shall contain such matter and be authenticated in such manner as may be required by regulations which the governor may prescribe.

(C) 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. If a verbatim record of trial by general or special court-martial is not required under divisions (A) and (B) of this section, the accused may buy such a record under such regulations as the governor may prescribe.

Effective Date: 07-17-1970

5924.55 Cruel and unusual punishments.

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

Effective Date: 10-10-1961

5924.56 Maximum punishments.

The punishment which a court-martial may direct for an offense may not exceed limits prescribed by this code or such lesser limits as the governor may prescribe for the offense.

Effective Date: 10-10-1961

5924.57 Effective date of sentences.

(A) 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 or deferred, 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) 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. Regulations prescribed by the governor may provide that sentences of confinement may not be executed until approved by designated officers.

(C) All other sentences of courts-martial are effective on the date ordered executed.

(D) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his

jurisdiction, the governor, may in his 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 officer who granted it or, if the accused is no longer under his jurisdiction, by the governor.

Effective Date: 07-17-1970

5924.58 Execution of sentence of confinement.

(A) A sentence of confinement adjudged by a military court, 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 of confinement under the control of any of the forces of the organized militia or in any jail or prison designated for that purpose. Persons so confined in a jail or prison are subject to the same discipline and treatment as persons confined or committed to the jail or prison by the courts of the state or of any political subdivision thereof.

(B) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(C) The keepers, officers, and wardens of city or county jails and of other jails or prisons designated by the governor, or by such person as he may authorize to act under section 5924.11 of the Revised Code and of this code, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person.

Effective Date: 10-06-1994

5924.59 Review of finding.

(A) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(B) 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.

Effective Date: 10-10-1961

5924.60 Initial action on the record.

After a trial by court-martial, the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the governor.

Effective Date: 10-10-1961

5924.61 Mandatory review of general courts-martial by state judge advocate.

The convening authority shall refer the record of each general court-martial to the state judge advocate, who shall submit his written opinion thereon to the convening authority. 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.

Effective Date: 10-10-1961

5924.62 Reconsideration of record.

(A) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(B) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(1) For reconsideration of a finding of not guilty of any specification, or a ruling which amounts to a finding of not guilty;

(2) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

(3) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

Effective Date: 10-10-1961

5924.63 Rehearings.

(A) If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(B) 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, and no sentence in excess of or more severe than the original sentence may be imposed, 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.

Effective Date: 10-10-1961

5924.64 Approval by convening authority.

In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

Effective Date: 10-10-1961

5924.65 Review of findings and sentence.

(A) If the convening authority is the governor, his action on the review of any record of trial is final.

(B) In all other cases not covered by division (A) of this section, if the sentence of a special court-martial as approved by the convening authority includes a bad conduct discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.

(C) All other special and summary court-martial records shall be sent to the law specialist or legal officer of the appropriate force of the organized militia and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations prescribed by the governor.

(D) The state judge advocate shall review the record of trial in each case sent to him for review as provided under division (C) of this section. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate shall be limited to questions of jurisdiction.

(E) The state judge advocate shall take final action in any case reviewable by him.

(F) In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, he may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(G) In a case reviewable by the state judge advocate under this section, he shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(H) The state judge advocate may order one or more boards of review, each composed of not less than three commissioned officers of the organized militia or on the state reserve list or state retired list, each of whom must be a member of the bar of the highest court of a state. Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad conduct discharge, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section.

Effective Date: 10-10-1961

5924.66 Execution of sentence.

Except as provided in sections 5924.21 and 5924.65 of the Revised Code, a court-martial sentence, unless suspended or deferred, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence as approved by him.

Effective Date: 07-17-1970

5924.70 Review counsel.

(A) Upon the final review of a sentence of a general court-martial or of a sentence to a bad conduct discharge, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

(B) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the organized militia and who has the qualifications prescribed in section 5924.27 of the Revised Code, if available, to represent the accused before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate, in the review of cases specified in division (A) of this section.

(C) If provided by him, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

Effective Date: 10-10-1961

5924.71 Execution of capital sentence.

No court-martial sentence extending to death or involving a general or flag officer may be executed until approved by the governor. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him, except a death sentence.

Effective Date: 10-10-1961

5924.72 Vacation of suspension.

(A) Before 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 the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(B) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the governor in cases involving a general court-martial sentence and to the commanding officer of the force of the organized militia of which the probationer is a member in all other cases covered by division (A) of this section. If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(C) 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.

Effective Date: 10-10-1961

5924.73 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 governor for a new trial on the ground of newly discovered evidence or fraud on the court-martial.

Effective Date: 07-17-1970

5924.74 Remission and suspension.

(A) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(B) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Effective Date: 10-10-1961

5924.75 Restoration.

(A) Under such regulations as the governor may prescribe, all rights, privileges, and property affected by an executed part 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 part is included in a sentence imposed upon the new trial or rehearing.

(B) If a previously executed sentence of dishonorable or bad conduct discharge is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(C) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as service for all purposes.

Effective Date: 10-10-1961

5924.76 Finality of court-martial judgments.

The proceedings, findings, and sentence of courts-martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval, as required by this code, 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 state, subject only to action upon a petition for new trial as provided in section 5924.73 of the Revised Code and of this code.

Effective Date: 10-10-1961

5924.77 Principal defined.

Any person subject to this code is a principal who:

(A) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission;

(B) Causes an act to be done which if directly performed by him would be punishable by this code.

Effective Date: 10-10-1961

5924.78 Accessory after the fact.

Any person subject to this code who, knowing that an offense punishable by this code 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.

Effective Date: 10-10-1961

5924.79 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.

Effective Date: 10-10-1961

5924.80 Attempts.

(A) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(B) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(C) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was not consummated.

Effective Date: 10-10-1961

5924.81 Conspiracy.

Any person subject to this code who conspires with any other person to commit an offense under this code 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.

Effective Date: 10-10-1961

5924.82 Solicitation.

(A) Any person subject to this code who solicits or advises another or others to desert in violation of section 5924.85 of the Revised Code and of this code or mutiny in violation of section 5924.94 of the Revised Code and of this code 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, he shall be punished as a court-martial may direct.

(B) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 5924.99 of the Revised

Code and of this code or sedition in violation of section 5924.94 of the Revised Code and of this code 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, he shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.83 Fraudulent enlistment - appointment or separation.

Any person who:

(A) Procures his own enlistment or appointment in the organized militia by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(B) Procures his own separation from the organized militia by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.84 Unlawful enlistment - appointment or separation.

Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia 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.

Effective Date: 10-10-1961

5924.85 Desertion.

(A) Any member of the organized militia who:

(1) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom 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 forces of the organized militia enlists or accepts an appointment in the same or another one of the forces of the organized militia without fully disclosing the fact that he has not been regularly separated;

(B) Any commissioned officer of the organized militia 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 therefrom permanently is guilty of desertion.

(C) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct.

Effective Date: 10-10-1961

5924.86 Absence without leave.

Any person subject to this code who, without authority:

(A) Fails to go to his appointed place of duty at the time prescribed;

(B) Goes from his appointed place of duty;

(C) 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.

Effective Date: 10-10-1961

5924.87 Missing movement.

Any person subject to this code 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.

Effective Date: 10-10-1961

5924.88 Contempt toward officials.

Any person subject to this code who uses contemptuous words against the president, the governor, or the legislature, or the governor or legislature of any state, territory, commonwealth, or possession wherein that person may be serving, shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.89 Disrespect toward superior officer.

Any person subject to this code who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.90 Assault - willfully disobeying an officer.

Any person subject to this code who:

(A) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(B) Willfully disobeys a lawful command of his superior commissioned officer;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.91 Insubordinate conduct toward noncommissioned officer.

Any warrant officer or enlisted member who:

(A) Strikes or assaults a warrant officer, non-commissioned officer, or petty officer, while that officer is in the execution of his office;

(B) Willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(C) 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.

Effective Date: 10-10-1961

5924.92 Failure to obey order or regulation.

Any person subject to this code who:

(A) Violates or fails to obey any lawful general order or regulation;

(B) Having knowledge of any other lawful order issued by a member of the organized militia, which it is his duty to obey, fails to obey the order; or

(C) Is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.93 Cruelty - maltreatment.

Any person subject to this code 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.

Effective Date: 10-10-1961

5924.94 Mutiny - sedition.

(A) Any person subject to this code 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;

(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) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished by death or such other punishment as a court-martial may direct.

Effective Date: 10-10-1961

5924.95 Arrest and confinement.

Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.96 Releasing prisoner without proper authority.

Any person subject to this code 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.

Effective Date: 10-10-1961

5924.97 Unlawful detention.

Any person subject to this code, who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.98 Noncompliance.

Any person subject to this code who:

(A) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(B) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.99 Misbehavior before or in the presence of the enemy.

Any person subject to this code who before or in the presence of the enemy:

(A) Runs away;

(B) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(C) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(D) Casts away his arms or ammunition;

(E) Is guilty of cowardly conduct;

(F) Quits his place of duty to plunder or pillage;

(G) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the organized militia;

(H) 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

(I) 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 this state, or to any other state, when engaged in battle;

shall be punished by death or such other punishment as a court-martial may direct.

Effective Date: 10-10-1961

5924.100 Subordinate compelling surrender.

Any person subject to this code who compels or attempts to compel the commander of any force of the organized militia of this state, or of any other state, 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 by death or such other punishment as a court-martial may direct.

Effective Date: 10-10-1961

5924.101 Improper use of countersign.

Any person subject to this code who compels or attempts to compel the commander of 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 by death or such other punishment as a court-martial may direct.

Effective Date: 10-10-1961

5924.102 Forcing a safeguard.

Any person subject to this code who forces a safeguard shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.103 Captured or abandoned property.

(A) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, 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) Any person subject to this code who:

(1) Fails to carry out the duties prescribed in division (A) of this section;

(2) Buys, sells, trades, or in any way deals in or disposes of 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.

Effective Date: 10-10-1961

5924.104 Aiding the enemy.

Any person subject to this code who:

(A) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(B) 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 suffer death or such other punishment as a court-martial or military commission may direct.

Effective Date: 10-10-1961

5924.105 Misconduct as a prisoner.

Any person subject to this code who, while in the hands of the enemy in time of war:

(A) 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

(B) While in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.106 Spies.

Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces of the United States, or of the organized militia of this state, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or this state, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death.

Effective Date: 10-10-1961

5924.107 False official statements.

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.108 Military property - loss, damage, destruction, or wrongful disposition.

Any person subject to this code who, without proper authority:

(A) Sells or otherwise disposes of;

(B) Willfully or through neglect damages, destroys, or loses; or

(C) 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 state, shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.109 Waste or destruction of nonmilitary property.

Any person subject to this code who, while in a duty status, willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.110 Improper hazarding of vessel.

(A) Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

(B) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.111 Drunken or reckless driving.

Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.112 Drunk on duty.

Any person subject to this code, other than a sentinel or lookout, who is found drunk on duty shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.113 Misbehavior of sentinel.

Any sentinel or lookout who is found drunk or sleeping on his post, or leaves it before he is regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the offense is

committed at any other time, by such punishment other than death as a court-martial may direct.

Effective Date: 10-10-1961

5924.114 Dueling.

Any person subject to this code who fights or promotes, or 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.

Effective Date: 10-10-1961

5924.115 Malingering.

Any person subject to this code who for the purpose of avoiding work, duty, or service in the organized militia:

(A) Feigns illness, physical disablement, mental lapse, or derangement; or

(B) Intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.116 Riot - breach of peace.

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.117 Provoking speeches or gestures.

Any person subject to this code who uses provoking or reproachful words or gestures toward any other person subject to this code shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.118 Murder.

Any person subject to this code who, without justification or excuse, unlawfully kills a human being, when he:

(A) Has a premeditated design to kill;

(B) Intends to kill or inflict great bodily harm;

(C) Is engaged in an act which is inherently dangerous to others and evinces a wanton disregard of human life; or

(D) Is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson; is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under division (A) or (D) of this section, he shall suffer death or imprisonment for life as a court-martial may direct.

Effective Date: 10-10-1961

5924.119 Manslaughter.

(A) Any person subject to this code who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct.

(B) Any person subject to this code who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being:

(1) By culpable negligence; or

(2) While perpetrating or attempting to perpetrate an offense, other than those named in division (D) of section 5924.118 of the Revised Code, directly affecting the person;

is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.120 Rape.

(A) Any person subject to this code who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(B) Any person subject to this code who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(C) Penetration, however slight, is sufficient to complete either of these offenses.

Effective Date: 10-10-1961

5924.121 Larceny - wrongful appropriation.

(A) Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the 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 it to his own use or the use of any person other than the owner, steals that 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 it to his own use or the use of any other person other than the owner, is guilty of wrongful appropriation.

(B) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.122 Robbery.

Any person subject to this code who with intent to steal takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.123 Forgery.

Any person subject to this code who, with intent to defraud:

(A) Falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or

(B) Utters, offers, issues, or transfers such a writing, known by him to be so made or altered; is guilty of forgery and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.1231 Insufficient funds.

Any person subject to this code who:

(A) for the procurement of any article or thing of value, with intent to defraud; or

(B) for the payment of any past due obligation, or for any other purpose, with intent to deceive; makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct. The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima-facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment. In this section, the word "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order.

Effective Date: 09-10-1963

5924.124 Maiming.

Any person subject to this code who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which:

(A) Seriously disfigures his person by any mutilation thereof;

(B) Destroys or disables any member or organ of his body; or

(C) Seriously diminishes his physical vigor by the injury of any member or organ;

is guilty of maiming and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.125 Sodomy.

(A) Any person subject to this code who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

(B) Any person found guilty of sodomy shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.126 Arson.

(A) Any person subject to this code who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

(B) Any person subject to this code who willfully and maliciously burns or sets fire to the property of another except as provided in division (A) of this section, is guilty of simple arson and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.127 Extortion.

Any person subject to this code who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.128 Assault.

(A) Any person subject to this code who 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.

(B) Any person subject to this code who:

(1) Commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

(2) Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.129 Burglary.

Any person subject to this code who, with intent to commit an offense punishable under sections 5924.118 to 5924.128, inclusive, of the Revised Code, and of this code, breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.130 Housebreaking.

Any person subject to this code who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.131 Perjury.

Any person subject to this code who, in a judicial proceeding or in a course of justice conducted under this code, 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.

Effective Date: 10-10-1961

5924.132 Frauds against government.

Any person subject to this code:

(A) Who, knowing it to be false or fraudulent:

- (1) Makes any claim against the United States, the state, or any officer thereof; or
- (2) Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;

(B) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof;

(1) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statement;

(2) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(3) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(C) Who, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(D) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, 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 state;

shall, upon conviction, be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.133 Conduct unbecoming an officer.

Any commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

5924.134 General article.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the organized militia, all conduct of a nature to bring discredit upon the organized militia, and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

Effective Date: 09-10-1963

5924.135 Courts of inquiry.

(A) Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry.

(B) 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) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the division of military and naval affairs, 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) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(E) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(F) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(G) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(H) 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.

Effective Date: 10-10-1961

5924.136 Authority to administer oaths and act as notary.

(A) The following persons of the organized militia may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before those persons who shall have the general powers of a notary public:

- (1) The state judge advocate and all assistant state judge advocates;
- (2) All law specialists;
- (3) All summary courts-martial;
- (4) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;
- (5) All commanding officers of the naval militia;
- (6) All legal officers;
- (7) The president, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial;
- (8) The president and the counsel for the court of any court of inquiry;
- (9) All officers designated to take a deposition;
- (10) All persons detailed to conduct an investigation; and
- (11) All other persons designated by regulations of the governor.

(B) Officers on the state reserve list and state retired list shall not be authorized to administer oaths as provided in this section unless they are on active duty in or with the organized militia under orders of the governor as prescribed in this code.

(C) The signature without seal of any such person, together with the title of his office, is prima-facie evidence of his authority.

Effective Date: 07-17-1970

5924.137 Articles to be explained.

Sections 5924.02, 5924.03, 5924.07 to 5924.15, inclusive, 5924.25, 5924.27, 5924.31, 5924.37, 5924.38, 5924.55, 5924.77 to 5924.134, inclusive, and 5924.137 to 5924.139, inclusive, of the Revised Code, and of this code shall be carefully explained to every enlisted member at the time of his enlistment or transfer or induction into, or at the time of his order to duty in or with any of the forces of the organized militia, or within thirty days thereafter. They shall also be explained annually to each unit of the organized militia. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the organized militia, upon his request, for his personal examination.

Effective Date: 09-10-1963

5924.138 Complaints of wrongs.

Any member of the organized militia who believes himself wronged by his 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 governor or adjutant general.

Effective Date: 10-10-1961

5924.139 Redress of injuries to property.

(A) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the organized militia, he may, subject to such regulations as the governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three officers and, for the purpose of that investigation, it has 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 in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in division (C) of this section, on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(B) 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 paid to the injured parties from the military fund of the unit or units of the organized militia to which such offenders belong.

(C) Any person subject to this code who is accused of causing willful damage to property, has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. He has the right of appeal to the next higher commander.

Effective Date: 10-10-1961

5924.140 Execution of process and sentence.

In the organized militia not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state. Where no provision is made for executing those processes and sentences, the process and sentence shall be executed by a United States marshal or deputy marshal, who shall make a return to the military officer issuing the process or the court imposing the sentence, pursuant to Title 32, Section 333, USC.

Effective Date: 10-10-1961

5924.141 Processes and mandates.

(A) Military courts may issue all processes and mandates necessary to carry into effect the powers vested in those courts. Such courts may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records, when the courts are sitting within the state and the witnesses, books, and records sought are also so located.

(B) Such processes and mandates may be issued by summary courts-martial, provost courts, or the president of other military courts and may be directed to and may be executed by the marshals of the military court[s] or any peace officer and shall be in such form as may be prescribed by regulations issued under this code.

(C) All officers to whom such processes or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate, or for any service in connection therewith.

Effective Date: 10-10-1961

5924.142 Payment and disposition of fines.

Fines may be paid to a military court or to an officer executing its process. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine and shall be paid over by the officer receiving it in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial. Notwithstanding any other law, a fine or penalty imposed by a military court upon an officer or enlisted man shall be paid by the officer collecting it within thirty days to the treasury of the organization, unit or detachment to which the officer or enlisted man who paid the fine belonged, to be accounted for in the same manner as other appropriated funds.

Effective Date: 10-10-1961

5924.143 Immunity.

No action or proceeding may be prosecuted 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.

Effective Date: 10-10-1961

5924.144 Presumption of jurisdiction.

The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

Effective Date: 10-10-1961

5924.145 Delegation by governor.

The governor may delegate any authority vested in him under this code, and may provide for the subdelegation of any such authority, except with respect to the power given him by sections 5924.21, 5924.22, and 5924.65 of the Revised Code and of this code.

Effective Date: 10-10-1961

5924.146 Duty status requisite to trial or punishment.

No person may be tried or punished for any offense provided for in sections 5924.77 to 5924.134, inclusive, of the Revised Code and of this code, unless it was committed while he was in a duty status.

Effective Date: 09-10-1963

5924.147 Limitation of penalties in peacetime.

(A) The penalties provided in Chapter 5924. of the Revised Code shall be applicable to the persons enumerated in section 5924.02 of the Revised Code only when in actual service in time of war or public danger.

(B) When not in actual service in time of war or public danger the following maximum penalties shall apply:

(1) General courts-martial shall have power to sentence to fines not exceeding two hundred dollars, forfeiture of pay and allowances not exceeding two hundred dollars, dismissal, dishonorable discharge, bad conduct discharge, reprimand, reduction of noncommissioned officers, specialists, or any enlisted man to an inferior grade; and to combine any two or more of such punishments in the sentence imposed.

(2) Special courts-martial shall have power to sentence persons, excepting a commissioned officer, to fines not exceeding one hundred dollars, forfeiture of pay and allowances not exceeding one hundred dollars, bad conduct discharge, reprimand, reduction of noncommissioned officers, specialists, or any enlisted man to an inferior grade; and to combine any two or more of such punishments in the sentence imposed.

(3) Summary courts-martial shall have power to sentence to fines not exceeding twenty-five dollars, forfeiture of pay and allowances not exceeding twenty-five dollars, reduction of noncommissioned officers, specialists, or any enlisted man to an inferior grade; and to combine any two or more of such punishments in the sentence imposed.

(4) All courts-martial, general, special, and summary shall have power to sentence to confinement in lieu of fines authorized to be imposed, provided that such sentences of confinement shall not exceed one day for each one dollar of fine authorized by this section.

Effective Date: 10-10-1961

5924.148 Short title.

This chapter of the Revised Code may be cited as the "Ohio code of military justice."

Effective Date: 10-10-1961

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Article eight

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<http://www.ag.state.oh.us/legal/opinions/2000/2000-001.pdf>

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