

#2  
AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE TUCK

TO: CSHB 126( ), Draft Version "H"

1 Page 10, following line 30:

2 Insert a new section to read:

3 "Sec. 26.05.452. Who may serve on courts-martial. (a) A commissioned  
4 officer of the militia of a state or of an active duty component of the armed forces of  
5 the United States is eligible to serve on a general, special, or summary court-martial  
6 for the trial of a member of the militia in active state service.

7 (b) A warrant officer of the militia of a state or of an active duty component of  
8 the armed forces of the United States is eligible to serve on a general or special court-  
9 martial for the trial of any person, other than a commissioned officer.

10 (c) An enlisted member of the militia of the state who is not a member of the  
11 same unit as the accused is eligible to serve on a general or special court-martial for  
12 the trial of an enlisted member, but only if the accused has, before the conclusion of a  
13 session of the court-martial called by the military judge under AS 26.05.528,  
14 personally requested, orally on the record or in writing, that enlisted members serve on  
15 the court-martial.

16 (d) After a request is made under (c) of this section, the accused may not be  
17 tried by a general or special court-martial unless enlisted members make up at least  
18 one-third of the total membership of the court. If eligible enlisted members are not  
19 available because of physical conditions or military exigencies, the court may proceed  
20 to try the accused without enlisted members, but the convening authority shall place  
21 on the record a detailed written explanation of why eligible enlisted members were not  
22 available.

23 (e) The accused may not be tried by a court-martial that includes a member

1 who is junior in rank or grade to the accused, unless the inclusion cannot be avoided.

2 (f) When convening a court-martial, the convening authority shall detail the  
3 members of the militia of a state or of an active duty component of the armed forces of  
4 the United States who are, in the convening authority's opinion, the best qualified for  
5 the duty by reason of age, education, training, experience, length of service, and  
6 judicial temperament. A person is not eligible to serve as a member of a general or  
7 special court-martial if the person is the accuser, is a witness, or has acted as  
8 investigating officer or as counsel in the same case.

9 (g) Before a court-martial is assembled for the trial of a case, the convening  
10 authority may excuse a member of the court from participating in the case. The  
11 convening authority may delegate the authority under this subsection to a judge  
12 advocate or to a principal assistant."