

ALASKA STATE LEGISLATURE

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HOUSE JUDICIARY COMMITTEE

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House Bill 126 – Explanation of Changes

Introduced Version W to CS Version F.A (JUD) am

Appellate Jurisdiction:

After a final decision has been made by the Military Appeals Commission, the State Supreme Court may be petitioned to review a conviction where confinement has been imposed. This court of appeals was previously given this jurisdiction.

Regulations:

Regulations allowed by HB 126 are limited to providing for nonjudicial punishment; rules of evidence and procedure in a court martial; and pre-trial, trial, and post-trial procedure. Many aspects of the organization of courts martial have been added to statute elsewhere in this bill, where previously left to regulation.

Jurisdiction of Code of Military Justice:

Courts martial have jurisdiction over crimes in this chapter, except for cases where an act also violates a civilian criminal law. In these cases, the civilian authority has primary jurisdiction and must decline to prosecute before a court martial may be initiated. A member of the National Guard may not be convicted by civil and military authorities for the same crime. This code also applies to members of the militia at all times, except when federalized or outside the state and not in active duty status.

Grand Jury Requirement:

For all courts martial for crimes with an authorized length of confinement longer than one year, a grand jury must first indict the individual being charged. A grand jury was not required in the original bill.

Statute of Limitations:

This new section limits the imposition of nonjudicial punishment and initiation of a court martial to within two and three years of an act, respectively. It also provides certain exceptions.

Maximum Limits on Punishments:

An offense will be classified as a felony only if the actual sentence of confinement imposed is greater than one year. Previously, the felony classification was based on the maximum authorized confinement of a crime.

Military Crimes and Penalties:

Offenses and their maximum penalties which are authorized under this chapter have been added as new sections, instead of being assigned to regulation.