

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

CORRECTION 11/12/15: pg. 2, no. 4, line 2 & no. 6, line 3.

November 4, 2015

MEMORANDUM

SUBJECT: Military Code of Justice
CSHB 126(); (Work Order No. 29-LS0473\G)

TO: Representative Gabrielle LeDoux
Attn: Kalyssa Maile

FROM: Megan A. Wallace
Legislative Counsel *MAW*

Enclosed please find the draft bill you requested. I made the changes you requested, but please be aware of the following drafting issues:

1. You previously expressed a desire that this office not change any language provided for the draft,¹ which I advised is contrary to our legislative drafting process and the Manual of Legislative Drafting.² For this reason we have

¹ While I understand that the language you have and continue to provide is model language proposed for use in other jurisdictions, and also contains language consistent with the Uniform Code of Military Justice, generally this is not a sufficient reason to deviate from the way in which Alaska statutes are drafted, as this can create ambiguity in the way that statutes are later interpreted. Model acts (as opposed to uniform acts or compacts, where uniformity of language and style is important) may generally be altered or changed to fit the drafting style of the state adopting the act to prevent such ambiguities.

² Uniform Rule 10 states:

Rule 10. Drafting Manual. The legislative drafting manual prepared by the enrolling secretary of the legislature and the revisor of statutes and adopted by the Legislative Council is to be followed by all officers and employees of the legislature in the preparation, processing, and disposition of all legislative documents and records.

The drafting manual quotes Rule 10 on page 3 and states the requirement to follow the manual as follows:

Therefore, persons drafting bills, resolutions, or amendments must follow this manual as required by law and rule to ensure that their documents will

incorporated the additional language changes you requested, but have not revised or reviewed the remaining portion of the bill for clarity, other legal problems, or cohesiveness. Nevertheless, please note some legal issues identified below in revision of the requested sections of the bill.

2. I have adhered to your above request, but please be advised that I did make a minor language change in AS 26.05.614(b) to better conform to language used in AS 26.05.588(b), 26.05.589(b), 26.05.633(b), and 26.05.634(c).
3. Per your request, I revised the bill to provide for alternate members of a court-martial. Please review AS 26.05.433 and 26.05.460 carefully to ensure I have captured your intent in this regard.
4. Similarly, please carefully review AS 26.05.425(a) and (b), 26.05.513(b), and 26.05.580(b) relating to nonjudicial punishment and attempt to ensure that I have captured your intent.
5. As I discussed with Kalyssa in your office, you requested that we delete AS 26.05.513(b) from the previous draft relating to maximum punishments, which has now been removed from this draft. In his revisions relating to sentencing, Captain Dunbar noted that the bill contains the maximum punishment language. As such, it was unclear from his note whether he intended for AS 26.05.513(b) to remain in the bill. I would recommend that you review AS 26.05.513(b) from the previous draft and discuss with Captain Dunbar to confirm that its deletion was appropriate.
6. Finally, because AS 33.30.051 in sec. 6 of the bill refers to persons convicted under AS 26.05 and confined under sec. 26.05.428 for commitment to state custody, AS 26.05.428(b) and (c) should be changed to apply to convictions.

If you have any questions or need further assistance, please advise.

MAW:dla
15-510.dla

Enclosure