

# LEGAL SERVICES

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## MEMORANDUM

September 15, 2015

**SUBJECT:** Sectional summary (CSHB 126 ( ));  
Work Order No. 29-LS0473\P)

**TO:** Representative Gabrielle LeDoux

**FROM:** Megan A. Wallace  
Legislative Counsel *MAW*

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Amends AS 22.05.010 by adding a new subsection to allow for supreme court review of a final decision of the Military Appeals Commission under certain circumstances.

**Section 2.** Amends AS 26.05.140(a) to note that the provision does not apply to an action or proceeding brought under the code of military justice.

**Section 3.** Makes a conforming change to an internal reference in AS 26.05.228(b)(2).

**Section 4.** Amends AS 26.05 by adding new subsections under Article 2, Code of Military Justice.

AS 26.05.380. Provides for adoption of certain regulations.

AS 26.05.400. Provides a statement of policy on military justice, noting that civilian courts have primary jurisdiction over offenses not defined by the chapter.

AS 26.05.403. Provides that the code applies to members of the militia at all times.

AS 26.05.405. Provides jurisdiction to try certain personnel by court-martial.

AS 26.05.408. Provides applicability to offenses and court-martials outside the state.

AS 26.05.410. Provides for and relates to judge advocates.

AS 26.05.420. Provides for apprehension of person subject to the code.

AS 26.05.423. Relates to imposition of restraint.

AS 26.05.423. Provides for restraint of persons charged with offenses.

AS 26.05.428. Relates to the place for confinement of prisoners and reports.

AS 26.05.430. Provides for the delivery of a person accused of a criminal offense to a civil authority.

AS 26.05.433. Classifies courts-martial.

AS 26.05.435 - AS 26.05.443. Provides for jurisdiction of courts-martial.  
AS 26.05.444 - AS 26.05.445. Makes grand jury requirements.  
AS 26.05.446 - AS 26.05.450. Provides who may convene a court-martial.  
AS 26.05.452. States who may serve on courts-martial.  
AS 26.05.445 - AS 26.05.458. Provides for the appointment to a court-martial of a military judge, trial and defense counsel, and other staff.  
AS 26.05.460. Relates to absences and additional members of courts-martial.  
AS 26.05.463. Details requirements of charges and specifications.  
AS 26.05.465. Prohibits compulsory self-incrimination.  
AS 26.05.468. Outlines investigation requirements of charges and specifications.  
AS 26.05.470. Provides for forwarding of charges.  
AS 26.05.473. Requires advice of judge advocate before trial.  
AS 26.05.475. Relates to service of charges on the accused.  
AS 26.05.478. Prohibits influencing the action of a court.  
AS 26.05.480. Relates to continuances.  
AS 26.05.483. Provides for oaths or affirmations.  
AS 26.05.485. Sets forth the statute of limitations for offenses.  
AS 26.05.488. Prohibits former jeopardy.  
AS 26.05.490. Relates to pleas of the accused.  
AS 26.05.495. Provides for punishment of contempt.  
AS 26.05.498 - AS 26.05.500. Provides for defenses of insanity and lack of mental capacity or mental responsibility.  
AS 26.05.503 - AS 26.05.508. Relates to voting and rulings at courts-martial, number of votes required, and record of trial.  
AS 26.05.510 - AS 26.05.518. Sets forth prohibition of cruel and unusual punishment, outlines punishments, maximum limits on punishments, deferment of sentences, and execution of confinement.  
AS 26.05.520 - AS 26.05.543. Provides for appeals, including establishment of Military Appeals Commission.  
AS 26.05.545 - AS 26.05.558. Provides miscellaneous administrative provisions, including provisions regarding delegation by the governor and payment of fines.  
AS 26.05.560. Provides that the code shall be uniformly applied, so far as practicable.  
AS 26.05.563. Provides immunity for a person acting under the code.  
AS 26.05.577 - AS 26.05.634. Sets forth offenses for members of the militia subject to courts-martial.  
AS 26.05.900. Provides definitions for the chapter.

**Section 5.** Amends AS 33.30.011 to include definition of "held under authority of state law."

**Section 6.** Requires persons confined under the code to be committed to the custody of the commissioner of corrections as directed by the adjutant general.

**Section 7.** Requires the attorney general to assist a military court in obtaining the commitment of a person accused of an offense under AS 26.05 for a competency examination or in the event of a finding of incompetence.

**Section 8.** Makes conforming changes to AS 44.35.020(a).

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**Section 9.** Repeals provisions of existing military code of Alaska.

**Section 10.** Provides that the bill applies to offenses occurring on or after the effective date of the Act.

**Section 11.** Provides for staggered initial terms for the members of the Military Appeals Commission.

**Section 12.** Provides for a July 1, 2016, effective date.

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