

Date of Hearing: June 30, 2015

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS

Jacqui Irwin, Chair

SB 193 (Committee on Veterans Affairs) – As Amended June 8, 2015

**SENATE VOTE:** 37-0

**SUBJECT:** Veterans.

**SUMMARY:** Cleans up and clarifies outdated language and references pertaining to Courts Martial for the California Military Department. Specifically, **this bill:** Deletes outdated references to executive orders and statutes creating the Manual for Courts-Martial and the Uniform Code of Military Justice (UCMJ), updates specified references, and provides that these apply except as otherwise provided in the California Manual for Courts-Martial or other regulations adopted by the Governor or the Adjutant General.

**EXISTING LAW:** Incorporates into the California Military Department's judicial and disciplinary regulations those standards and procedures, which are contained in the federal UCMJ and related rules and regulations, as authorized by federal statute. Generally the California Military and Veterans Code attempts to create a parallel structure to that which applies to those people who are subject to the UCMJ. Specifically, this bill,

- 1) In the section of code incorporating by reference and applying the UCMJ and Manual for Courts Martial, United states:
  - a) Removes the reference in Military and Veterans Code section 102 to a Reagan-era Presidential Executive Order
  - b) Incorporates by reference the California Manual for Courts-Martial
  - c) Includes a new reference to incorporate regulations adopted by the Governor.
- 2) In the provision of the Code which pertains to the make up, form, jurisdiction, and other particulars of courts-martial:
  - a) Removes references to the Articles of War and the National Defense Act.
  - b) Adds a reference to laws and regulations of the Navy.
  - c) Clarifies that the UCMJ, regulations adopted by the Governor or Adjutant General, and the California Manual for Courts-Martial apply to the active militia including the National Guard.

**FISCAL EFFECT:** This bill is not keyed fiscal.

**COMMENTS:**

California military law applies to the state's active militia, which is comprised of the National Guard, State Military Reserve and Naval Militia.

The California Manual for Courts-Martial provides an excellent summary of the law regarding military law and justice applicable to the California National Guard. California has chosen to also include in this framework the State Military Reserve and Naval Militia.

The National Guard in Title 10 federal service is expressly subject to the Uniform Code of Military Justice (10 USC Section 802(a)(3) and the Manual for Courts-Martial, United States. The applicable law concerning the National; Guard not in federal service requires that the National Guard have courts-martial constituted like similar Title 10 courts with the same jurisdiction and powers except as to punishments (which shall be provided by state law), and that such courts shall follow the forms and procedures provided for Title 10 courts (32 USC Section 326). The intent of California law is to conform to all actions and regulations of the United States affecting the military (California Military and Veterans Code section 100). ...

California law also makes the UCMJ, and the rules and regulations published thereunder, applicable to the California National Guard except as otherwise provided in the California Military and Veterans Code (Military and Veterans Code sections 102 and 103).

This bill removes outdated references, includes reference to the laws and regulations applicable to the Navy (presumably in case a Naval Militia is utilized), expressly includes the California Manual for Courts-Martial, and makes other changes that do not impact the

#### Related Legislation:

1. AB 1410 (Comm on VA, Ch. 322, Stats. 2013) Provides clear statutory authority for the CMD's existing practices regarding its Courts-Martial Appellate Panel.
2. AB 2579 (S.Runner, Ch. 358, Stats. 2006) updates California military law in the area of punishments available for state courts-martial to make them more consistent with comparable provisions in federal military law.
3. SB 1025 (Craven, Ch. 90, Stats. 1989) adopts the federal UCMJ and Manual for Courts-Martial for the State of California's application to its active militia, including the California National Guard.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Military Department

##### **Opposition**

None on File.

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