

MAINE STATE LEGISLATURE

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REPORT OF THE
JOINT STANDING COMMITTEE
ON
AGING, RETIREMENT AND VETERANS
OF ITS STUDY OF THE
RECODIFICATION OF THE STATE MILITARY LAWS

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Sen. Charles Dow
Sen. Carroll E. Minkowsky
Sen. Thomas M. Teague
Rep. Daniel B. Hickey
Rep. Francis J. Perry
Rep. Raynold Thereault
Rep. John L. Tuttle

Rep. Edward Ainsworth
Rep. Gerard J. Lehoux
Rep. Joseph W. Mayo
Rep. Dana P. Stevenson
Rep. W. Norman Walker
Rep. Eugene J. Paradis

Legislative Assistant:

June, 1983

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STUDY REPORT SUMMARY

AGING, RETIREMENT & VETERANS COMMITTEE

Recodification of the State Military Laws

Toward the end of the Second Regular Session of the 110th Legislature, LD 2020, AN ACT to Revise the Military Laws of the State, was assigned to the Aging, Retirement and Veterans' Committee. Because the bill was very long, somewhat complex and appeared to contain a number of provisions which needed careful analysis, the Committee did not feel that it had adequate time to devote to consideration of the bill during the waning days of the session. Instead it was decided to grant Leave to Withdraw to the bill and to request a study order to work on the bill during the interim.

The Legislative Council approved the study order request to Recodify the State Military Laws. The Committee began its work during the summer of 1982. The Committee appointed a subcommittee who were interested and experienced in the area of military law. The subcommittee consisted of Representative Eugene Paradis, Chairperson, Representative Raynold Theriault, Representative John Tuttle and Representative Alexander Richard.

The subcommittee held an organizational meeting with staff on August 5, 1982. At that time the goal and approach for the recodification were developed.

As decided by the subcommittee, the recodification was to consist of two elements. The first, was a thorough rewrite of the existing law, Title 37-A. That rewrite was to consist of the application of modern drafting principles to clarify ambiguities, avoid duplication, update archaic language and references and reorganize the existing law into a more useable format. That part of the recodification was to contain no substantive changes in existing law. It was felt that rather than to repeal and

replace various portions of Title 37-A, it would be wise to repeal the old title and replace it with a new Title 37-B. Special provision had to be made for the unallocated provisions of Title 37-A, chapter 28 dealing with the bonding of the Maine Veterans' Home. To clarify that the bonding arrangements were to continue in effect after the recodification, those provisions were specifically exempted from the repeal of 37-A.

The procedure approved by the subcommittee for the recodification involved development by staff of drafts of various parts of the new title. Those drafts were reviewed and commented on by interested parties. Drafts of various part of the recodification were reviewed by representatives of the Department of Defense and Veterans' Services, the Military Bureau, the Bureaus of Veterans' Affairs and Civil Emergency Preparedness, the Maine Veterans' Home, the Maine Veterans' Small Business Loan Authority Board, the Judge Advocate General's Office of the Maine National Guard and the Attorney General's Office. After comments from those interested parties had been incorporated, the drafts were presented to members of the subcommittee for their consideration. Finally, the subcommittee reported back to the full Committee with its recommendations. Those recommendations were incorporated into the bill, LD 1593, AN ACT to Recodify the State Military Laws, recommended for passage by the Aging, Retirement and Veterans Committee.

The second element of the recodification dealt with substantive changes to the military laws. The subcommittee recognized that there were several areas where substantive changes in the existing law were necessary and desirable. However, the subcommittee felt that such changes deserved thorough debate both in committee and on the floors of both bodies of the Legislature. It seemed unfair to "hide" such provisions in the lengthy recodification bill. Furthermore, such a move might jeopardize passage of

the straightforward recodification bill. Therefore, the subcommittee decided to develop a companion bill which would contain substantive changes to existing law. The subcommittee developed its recommendations for this bill primarily through contact with the Judge Advocate General's Office, representing the Department of Defense and Veterans' Services. Again the subcommittee reported back to the full Committee with its recommendations. The substantive bill, ID1777, is entitled "AN ACT to Amend the Military Laws of the State of Maine." The provisions of the substantive bill are thoroughly summarized in the statement of fact to that bill. The bill:

- Authorizes the Adjutant General to administer federal funds and property;
- Allows the Governor to appoint an Adjutant General who meets all the criteria for promotion to Major General except for the period of time that he has carried field grade rank;
- Provides minimum pay to members of the State military forces who are called to active duty;
- Authorizes the Governor to hire civilian employees for military purposes;
- Authorizes the Military Bureau to maintain and charge a fee for a lodging facility for military personnel;
- Gives the Governor rule-making and other powers in the event of an emergency caused by civil disturbance;
- Recognizes State military forces personnel on active duty as State employees and as law enforcement officers;
- Clarifies the rights of members of State military forces to reemployment upon completion of active State service;
- Updates old language to clarify the relationship between federal,

state and local levels of government concerning construction of armories;

- Clarifies the rights of State employees with respect to pay and other benefits as a result of a military leave of absence;
- Authorizes the Governor to establish an awards and medals program;
- Authorizes the Governor to reactivate a former member of the State military forces for purposes of court-martial when that person was discharged prior to arrest for violation of the Maine Code of Military Justice;
- Clarifies the appointment of Judge Advocates by the Adjutant General;
- Allows the Adjutant General to call on civil officials to assist in returning AWOL members to their units;
- Establishes a Non-judicial Punishment Panel for minor violations and prescribes procedures for its operation;
- Amends language relating to imposition and collection of fines and forfeitures;
- Clarifies language relating to culpability under military law when an individual performs an act which is also a civil offense;
- Removes the requirement that attorneys participating in court-martial activities be Judge Advocates;
- Authorizes use of electronic transcription to record court-martials;
- Authorizes a military judge to issue subpoenas;
- Provides for review by the State Judge Advocate upon application for a new trial by court-martial;
- Requires the Bureau of Veterans' Affairs to make copies of veterans' records available to the V.A.; and

- Clarifies the Governor's authority in case of natural disasters and provides for termination of an emergency proclamation in such cases.