

**192A.085 COMMANDING OFFICER'S NONJUDICIAL PUNISHMENT.**

Subdivision 1. **Disciplinary punishments.** Under such rules as the governor may prescribe any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) upon an officer of the command:

(i) withholding of privileges for not more than two consecutive weeks;

(ii) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or

(iii) if imposed by the governor, the commanding officer of a force of the state military forces, or the commanding general of a division, a forfeiture of not more than 15 days pay or a fine in an equivalent amount;

(2) upon other military personnel of the command:

(i) withholding of privileges for not more than two consecutive weeks;

(ii) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;

(iii) extra duties for not more than 14 days, which need not be consecutive, holidays included;

(iv) reduction to the next inferior grade by the commander with promotion authority or higher command; or

(v) forfeiture of not more than four days pay or a fine in an equivalent amount.

Subd. 2. **Governor's limitations.** The governor may, by rule, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

Subd. 3. **Demand for court-martial.** Punishment may not be imposed upon any person subject to this code if such person, before imposition of such punishment, has demanded trial by court-martial in lieu of such punishment.

Subd. 4. **Appeal.** A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished shall not in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, the successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. Before acting on an appeal from a punishment of a fine or forfeiture of pay or reduction in grade, the authority who is to act on the appeal shall refer the matter to the authority's judge advocate for advice and counsel.

Subd. 5. **Related serious offenses.** The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial or prosecution by civilian authorities for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section. Whether an offense is serious depends on several factors including, but not limited to, the nature of the offense; the circumstances

surrounding its commission; and the defendant's age, rank, duty assignment, records, and experience. If the soldier declines nonjudicial punishment and the matter is referred to trial by summary court-martial, jurisdiction must be determined pursuant to section 192A.02, subdivision 3, paragraph (a). The fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

Subd. 6. **Forfeiture of pay.** Whenever a punishment of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing on or after the date that punishment is imposed and to any pay accrued before that date.

Subd. 7. **Definition.** For purposes of this section, "consecutive" means time on duty as a member of the state military forces not in federal active service.

**History:** 1963 c 661 s 192A.085; 1978 c 552 s 5; 1985 c 248 s 70; 1986 c 444; 2002 c 308 s 12-15