

CHAPTER 20

MILITARY AND VETERANS

HOUSE BILL 96-1025

BY REPRESENTATIVES Paschall, Congrove, and Schwarz;
also SENATORS Mutzebaugh, Coffman, Johnson, and Tebedo.

AN ACT**CONCERNING PROCEDURES FOR FILING COMPLAINTS OF WRONGS AGAINST COMMANDING OFFICERS
IN THE STATE MILITARY FORCES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 28-3.1-604, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

28-3.1-604. Complaints of wrongs. (1) Any member of the state military forces, who believes himself OR HERSELF wronged by ~~his~~ ANY commanding officer ~~and who, upon application to that commanding officer, is refused redress may complain to any superior commissioned officer, who shall forward the complaint to the governor through the adjutant general. The governor, after investigation, shall take such measures as he deems proper~~ IN HIS OR HER CHAIN OF COMMAND AND WHO IS DISSATISFIED WITH THE REDRESS AFFORDED BY THE GRIEVANCE PROCEDURES SET FORTH IN THE REGULATIONS PRESCRIBED BY THE ADJUTANT GENERAL, MAY PETITION FOR REDRESS BY FILING A COMPLAINT OF WRONGS. THE COMPLAINANT SHALL DELIVER THE COMPLAINT TO THE MILITARY REPORTING OFFICIAL IN THE COMPLAINANT'S CHAIN OF COMMAND WHO LAST RESPONDED TO THE COMPLAINANT'S PETITION FOR REDRESS BEFORE IT WAS SUBMITTED TO THE INSPECTOR GENERAL PURSUANT TO THE REGULATIONS OF THE ADJUTANT GENERAL. THE COMPLAINT SHALL SET FORTH FACTS IN SUPPORT OF THE PETITION AND SHALL STATE THAT THE FACTS ARE TRUE TO THE BEST OF THE COMPLAINANT'S KNOWLEDGE AND BELIEF. THE PERSON TO WHOM THE COMPLAINT IS DELIVERED SHALL RESPOND TO THE COMPLAINT WITHIN FORTY-FIVE DAYS AFTER RECEIVING THE COMPLAINT AND SHALL ADDRESS EACH ALLEGATION OF THE COMPLAINT.

(2) IF THE COMPLAINANT IS DISSATISFIED WITH THE REDRESS AFFORDED BY THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RESPONSE PREPARED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND THE COMPLAINANT REASONABLY BELIEVES THAT HE OR SHE HAS EVIDENCE THAT REBUTS THE FINDINGS SET FORTH IN THE RESPONSE, THE COMPLAINANT MAY APPEAL TO THE MILITARY REPORTING OFFICIAL OF THE OFFICER WHO RESPONDED TO THE COMPLAINT OF WRONGS. THIS APPELLATE AUTHORITY SHALL RESPOND TO THE APPEAL WITHIN FORTY-FIVE DAYS OF RECEIVING THE APPEAL, SHALL ADDRESS EACH ALLEGATION OF THE APPEAL, AND SHALL DELIVER A COPY OF THE RESPONSE TO THE ADJUTANT GENERAL. THE PROCEDURES SET FORTH IN THIS SUBSECTION (2) SHALL APPLY THROUGH EACH STEP OF THE COMPLAINANT'S CHAIN OF COMMAND UNTIL THE COMPLAINANT REACHES THE ADJUTANT GENERAL.

(3) IF THE COMPLAINANT IS DISSATISFIED WITH THE REDRESS AFFORDED BY AN APPEAL PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COMPLAINANT MAY SUBMIT A COMPLAINT OF WRONGS DIRECTLY TO THE GOVERNOR. THE GOVERNOR SHALL RESPOND TO THE COMPLAINT WITHIN FORTY-FIVE DAYS OF RECEIVING THE COMPLAINT AND SHALL ADDRESS EACH ALLEGATION OF THE COMPLAINT.

(4) THE GOVERNOR MAY REFER ALL COMPLAINTS OF WRONGS TO THE NATIONAL GUARD BUREAU INSPECTOR GENERAL FOR AN INDEPENDENT INVESTIGATION AND REPORT PURSUANT TO FEDERAL LAW. UPON RECEIPT OF SUCH REPORT, THE GOVERNOR SHALL DELIVER TO THE COMPLAINANT ALL PORTIONS OF THE REPORT THAT MAY BE RELEASED PURSUANT TO FEDERAL LAW.

(5) RETALIATION IN ANY FORM AGAINST A COMPLAINANT FOR PURSUING THE REMEDIES DESCRIBED IN THIS SECTION IS PROHIBITED.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 20, 1996

Editor's note: Since this act does not contain a Safety Clause, it is subject to the referendum provisions of section 1 (3) of article V of the state constitution. See section 2 of this act for the effective date.