

H.149

An act relating to modernizing statutes related to the Vermont National Guard

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 20 V.S.A. § 361 is amended to read:

§ 361. MILITARY DEPARTMENT; NATIONAL GUARD

(a) The Military Department, created by 3 V.S.A. § 212, shall be administered by the Adjutant and Inspector General and shall include the National Guard and all military components of the State.

(b) The organized militia shall be known as the National Guard, and shall consist of the organizations and personnel of ~~such~~ any arm, service, corps, or department ~~as that~~ the federal government ~~may require~~ requires to be maintained in the State. The National Guard shall be organized in accordance with federal regulations and approved by the Governor. The Governor may alter, divide, annex, consolidate, disband, or reorganize the ~~same~~ Vermont National Guard and create new organizations, ~~when the by federal regulations require, in order~~ as necessary to ensure that the Vermont National Guard of this State shall conform conforms to federal regulations and any system of drill, discipline, administration, and instruction prescribed for the U.S. Armed Forces.

(c) The ~~Governor~~ Adjutant and Inspector General shall adopt all necessary rules for the government of the National Guard pursuant to this ~~section~~ chapter.

Sec. 2. 20 V.S.A. § 362 is amended to read:

§ 362. FEDERAL LAWS AND REGULATIONS

Matters relating to the organization, discipline, training, and government of the National Guard not otherwise provided for in this chapter and chapters 23 through 39 of this title, nor in the general rules adopted by the Governor or Adjutant General, shall be decided by the federal laws and regulations prescribed for the National Guard and the U.S. Army, or Air Force, or Navy as applicable.

Sec. 3. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) The General Assembly shall biennially elect an Adjutant and Inspector General, who for a term of two years.

(2) An Adjutant and Inspector General appointed to fill a vacancy occurring during a term shall serve the remainder of the unexpired term.

(b) The Adjutant and Inspector General shall also be Quartermaster General with granted the rank of a major general within the State.

(c)(1) The Adjutant General may appoint a deputy Deputy with appropriate rank, the approval of the Governor. The Adjutant General may also appoint an Assistant Adjutant General for Army, an Assistant Adjutant General for Air, an Assistant Adjutant General for Joint Operations, a Command Sergeant Major,

and a Command Chief Master Sergeant, without pay, with the approval of the Governor.

(2) The Adjutant and Inspector General may remove the appointed assistant adjutant generals and sergeants and shall be responsible for their acts.

(3) Upon appointment, each Assistant Adjutant General shall be a federally recognized officer of the National Guard of the rank of lieutenant colonel or above, and shall have a rank of colonel or brigadier general within the State, and the Command Sergeant Major shall be a federally recognized noncommissioned officer of the National Guard of the rank of master sergeant or first sergeant or above, and the Command Chief Master Sergeant shall be a federally recognized noncommissioned officer of the rank of senior master sergeant ~~or first sergeant~~.

(4) The Deputy, ~~Assistants~~ assistants, and ~~Sergeants~~ sergeants shall perform duties as the Adjutant and Inspector General ~~and Quartermaster General~~ shall direct.

(d)(1) In the absence or disability of the ~~officer~~ Adjutant and Inspector General, the Deputy shall perform the duties of that office.

(2) In case a vacancy occurs in the office of Adjutant and Inspector General ~~and Quartermaster General~~, the Deputy shall assume and discharge the duties of the office until the vacancy is filled.

(e) ~~The appointments~~ Appointments made pursuant to subsections (a) and (c) of this section shall be in writing and recorded in the ~~office~~ Office of the Secretary of State.

(f) All other officers of the National Guard shall be chosen in accordance with rules adopted by the ~~Governor~~ Adjutant and Inspector General consistent with the laws of this State and the United States.

Sec. 4. 20 V.S.A. § 364 is amended to read:

§ 364. GOVERNOR'S STAFF OFFICERS

The ~~governor~~ Governor may detail not more than five officers of the ~~national guard or organized reserves~~ National Guard, Reserve Components of the U.S. Armed Forces, or retired officers of any branch of the ~~armed forces of the United States~~ U.S. Armed Forces who are residents of Vermont for duty ~~upon~~ on his or her staff, ~~to~~. The appointed officers shall serve during at his or her pleasure, ~~which details~~. Service on the Governor's staff shall not add to the actual grade of the appointed officers ~~so appointed~~, and shall not relieve ~~such officers~~ them from their ordinary duties except when actually on duty with the ~~governor~~ Governor.

Sec. 5. 20 V.S.A. § 365 is amended to read:

§ 365. DISCHARGES TO OFFICERS

Discharges to commissioned officers may be granted by the ~~Commander in Chief~~ Governor under rules adopted by the ~~Commander in Chief~~ Adjutant and Inspector General.

Sec. 6. 20 V.S.A. § 366 is amended to read:

§ 366. SPECIAL DUTY

When it ~~appears that the necessities of~~ necessary for the military or public service ~~so require~~, the ~~commander in chief~~ Governor or designee may designate officers or enlisted personnel, or both, for the performance of special duty as ~~the necessity of the case may demand~~ required under the circumstances.

Sec. 7. 20 V.S.A. § 367 is amended to read:

§ 367. COSTS; FINES AND FORFEITURE

Costs incurred in a proceeding to enforce a penalty imposed ~~by part 2~~ pursuant to this chapter or chapters 23 to 39 of this title shall be paid by the ~~state~~ State. Fines and forfeitures imposed ~~by part 2~~ pursuant to this chapter or chapters 23 to 39 of this title shall be paid into the ~~state treasury~~ State Treasury.

Sec. 8. 20 V.S.A. § 368 is amended to read:

§ 368. ACTIVATION OR DEPLOYMENT OF NATIONAL OR STATE
GUARD OR RESERVE MEMBERS; PROFESSIONS AND
OCCUPATIONS; STATE REGULATION

Notwithstanding any provision of law to the contrary, a member of the ~~national guard~~ National Guard, ~~state guard~~ State Guard, or a reserve component of the U.S. Armed Forces, whose profession or occupation is regulated by an agency of the ~~state~~ State and who holds a valid license, certification, or registration to practice that profession or occupation at the time of activation or deployment, shall be entitled to:

(1) an extension of the period of active licensure or certification through the duration of and up to 60 days following the person's return from activation or deployment, provided that maintenance of active licensure or certification is required by the military during the time of ~~such~~ the activation or deployment.

In order to qualify for the extension, the person shall:

* * *

Sec. 9. 20 V.S.A. § 369 is amended to read:

§ 369. AWARDS AND MEDALS

Upon the approval of the Governor, the Adjutant and Inspector General may, ~~from time to time~~, create and design ~~such~~ awards and medals to recognize meritorious service or outstanding achievement for members of the Vermont

National Guard. The Adjutant and Inspector General ~~will cause to be published~~ shall publish a roster of these awards and medals, the criteria and process for awarding them, and a description or specification of ~~the each~~ each award ~~and medals or medal~~. All awards and medals ~~will~~ shall be presented in the name of the State of Vermont and be awarded to a member or retired member of the Vermont National Guard or if the member is deceased to the member's spouse, child, parent, sibling, or grandchild or, if none, to a person designated by the executor of the member's estate.

Sec. 10. 20 V.S.A. § 421 is amended to read:

§ 421. DUTIES GENERALLY

The Adjutant and Inspector General shall issue, sign, and transmit the orders of the ~~Commander-in-Chief~~ Governor, and the rules that may be established, and obey the orders from him or her as to carrying into execution the laws of the United States and of this State. He or she shall be charged with the correspondence between the ~~Commander-in-Chief~~ Governor and officers of the several states and territories, the Secretary of Defense, and other persons in official stations, on the subject of military affairs, and shall keep a record of ~~such~~ the correspondence.

Sec. 11. 20 V.S.A. § 422 is amended to read:

§ 422. FORMS; RETURN

(a) The ~~adjutant and inspector general~~ Adjutant and Inspector General shall prepare and provide at the expense of the ~~state~~ State, or procure from the federal government, all necessary rosters and books of record, and the blank forms for commissions, discharges, returns, and other papers required by law; ~~and. The Adjutant and Inspector General shall~~ distribute the ~~same~~ rosters, books of record, and forms to the officers and organizations requiring them.

(b) He or she shall ~~make such return~~ provide an account of the ~~national guard~~ National Guard and its arms and equipment as ~~may be~~ required by the federal government or the ~~commander in chief~~ Governor and transmit ~~the same~~ it to the proper officials.

Sec. 12. 20 V.S.A. § 423 is amended to read:

§ 423. EVIDENCE OF NEGLIGENCE OR DEFAULT IN MAKING RETURNS

When the ~~adjutant and inspector general~~ Adjutant and Inspector General is complainant for neglect or other default in ~~making returns~~ the submission of required reports and other documents, he or she shall not be required to be present, but his or her certificate shall be prima facie evidence that the ~~return~~ required report or document was not ~~made~~ properly submitted; and copies of records or papers in the office, duly certified and authenticated by him or her, shall be evidence in all cases as if the originals were produced.

Sec. 13. 20 V.S.A. § 424 is amended to read:

§ 424. PUBLICATION OF LAWS

The ~~adjutant and inspector general~~ Adjutant and Inspector General shall ~~cause, at the expense of the State, distribute to and inform every general, field, staff, and commanding officer of the laws relative~~ related to the ~~national guard~~ National Guard ~~to be published and distributed, from time to time, to every general, field, staff and commanding officer, at the expense of the state.~~

Sec. 14. 20 V.S.A. § 425 is amended to read:

§ 425. RECORDS

The ~~adjutant and inspector general~~ Adjutant and Inspector General shall keep ~~such~~ all records ~~as are~~ required for the administration of the ~~national guard~~ National Guard.

Sec. 15. 20 V.S.A. § 426 is amended to read:

§ 426. WAR RECORDS AND FILES

The ~~records~~ Records and files ~~in the office of the adjutant and inspector general~~ pertaining to all wars in which the ~~state~~ State has participated and rosters of Vermonters participating in wars shall be kept in ~~such~~ the office of the Adjutant and Inspector General or in the ~~state archives and not taken therefrom, except upon the order of the governor or of the adjutant and inspector general, for special purposes. Microfilms of the records and files shall be taken from time to time. Rosters of Vermonters participating in wars~~

~~shall be similarly maintained~~ State Archives as provided pursuant to 3 V.S.A.
§ 218.

Sec. 16. 20 V.S.A. § 427 is amended to read:

§ 427. SEXUAL ASSAULT AND HARASSMENT; REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), the Adjutant and Inspector General shall ~~make a~~ report to the General Assembly on or before January 15, ~~2014 and~~ ~~annually thereafter~~ of each year regarding complaints of sexual assault and harassment involving members of the Vermont National Guard.

* * *

Sec. 17. 20 V.S.A. § 481 is amended to read:

§ 481. DUTIES GENERALLY

(a) ~~The quartermaster general~~ Adjutant and Inspector General shall keep in good repair, and attend to the preservation, safekeeping, and cleaning of the ordnance, arms, accoutrements, ammunition, munitions of war, and implements of every description, whether the property of the ~~state~~ State or issued to the ~~state~~ State by the federal government, and shall have the control and disposition of ~~the same~~ it for that purpose, subject to the orders of the ~~commander in chief~~ Governor. ~~He or she shall designate, under the direction of the commander in chief, such kind of arms to be received from the United States as are deemed necessary for the military service of this state and dispose of the arms, ammunition, accoutrements, tools, implements and warlike stores~~

~~of every kind, the property of the state, deemed unsuitable for use, and from time to time, render an account of sales made by him or her, and pay the proceeds into the state treasury.~~

(b) ~~He or she~~ The Adjutant and Inspector General shall make provisions for the care and preservation of the buildings and grounds used in connection with the ~~national guard~~ National Guard.

Sec. 18. 20 V.S.A. § 482 is amended to read:

§ 482. ~~BOND~~

~~Before entering upon his duties the quartermaster general shall give a bond to the state as required by 3 V.S.A. § 251. [Repealed.]~~

Sec. 19. 20 V.S.A. § 483 is amended to read:

§ 483. INSTRUCTIONS TO COMMANDING OFFICERS

The ~~quartermaster general~~ Adjutant and Inspector General, ~~from time to time~~, shall give ~~such~~ instructions to the commanding officers of the separate units of the ~~national guard~~ National Guard as ~~are~~ necessary for the discharge of the duties of ~~his or her department~~ the unit and the Military Department under this chapter.

Sec. 20. 20 V.S.A. § 486 is amended to read:

§ 486. PROVISION FOR PAY

The ~~Quartermaster General~~ Adjutant and Inspector General shall provide for the pay of each officer and enlisted Guard member for duty performed and

authorized in accordance with ~~part 2~~ chapters 21-39 of this title, ~~under rules adopted by the Commander in Chief.~~ The Adjutant and Inspector General shall adopt rules to carry out the provisions of this section.

Sec. 21. 20 V.S.A. § 541 is amended to read:

§ 541. ~~MEMBERS OF BOARD OF~~ ARMORY COMMISSIONERS;

MEMBERS

The ~~governor~~ Governor, the ~~adjutant general~~ Adjutant and Inspector General, and the senior commander of the ~~army national guard of the state,~~ Vermont Army National Guard shall, ex officio, constitute ~~a board of armory commissioners of which the governor~~ the Board of Armory Commissioners. The Governor shall be ~~chairman~~ the Chair of the Board and the ~~adjutant general, secretary~~ Adjutant and Inspector General shall be the Secretary.

Sec. 22. 20 V.S.A. § 542 is amended to read:

§ 542. ACQUISITION, MAINTENANCE, AND DISPOSAL OF

PROPERTY FOR THE NATIONAL GUARD USE

In the name of the State, the Board shall be responsible for the real estate and personal property of the National Guard. The Board may acquire or purchase, ~~and~~ maintain, and dispose of by sale or otherwise real estate and personal property. Upon determination by the Board that real estate is to be disposed of, the disposal shall be at fair market value, and ~~the~~ proceeds shall be allocated to future capital construction acts.

Sec. 23. 20 V.S.A. § 543 is amended to read:

§ 543. LOCATION; PLAN OF CONSTRUCTION; CONTRACTS

~~Such board~~ The Board may determine the location of ~~such~~ armories, ~~the~~ and ~~their~~ plan of construction ~~of the same~~, and ~~to~~ may make all contracts necessary for the purchase, erection, and maintenance ~~thereof~~ of the armories of the National Guard.

Sec. 24. 20 V.S.A. § 544 is amended to read:

§ 544. ISSUANCE OF WARRANTS

Upon ~~requisition~~ request of ~~such board~~ the Board, the ~~commissioner of~~ Commissioner of Finance and Management shall issue ~~his or her~~ warrants for ~~such~~ sums as ~~may from time to time be~~ necessary to carry out the provisions of sections 541 and 543 of this ~~title~~ chapter, subject to the limitations ~~prescribed~~ set forth in section 542 of this ~~title~~ chapter.

Sec. 25. 20 V.S.A. § 545 is amended to read:

§ 545. USE OF ARMORIES; RULES

(a) The Board shall ~~establish~~ adopt rules governing the use and occupancy of the National Guard's armories and property, ~~and which shall cause the same~~ to be posted conspicuously be posted in a conspicuous location in the National Guard's buildings. A member of the National Guard who violates the rules shall be deemed guilty of a military offense, punishable as a court-martial shall ~~direct~~, pursuant to the provisions of sections 941 and 942 of this title.

(b) Fees collected under this section for rental of armories shall be credited to ~~a special fund~~ the Armory Rentals Special Fund and shall be available to the Military Department to offset the cost of providing the services.

Sec. 26. 20 V.S.A. § 601 is amended to read:

§ 601. WHEN AND BY WHOM NATIONAL GUARD CALLED OUT

(a) The ~~Commander in Chief~~ Governor or, in his or her absence, the Lieutenant Governor, or, in the absence of both, the Adjutant and Inspector General, in case of riot, rebellion, or insurrection within the State, or in case of great opposition to the service of legal process, whether civil or criminal, or in case of invasion or imminent danger ~~thereof~~ of invasion, or in case of disaster, or emergency proclaimed by the Governor, may call out the National Guard, or such parts of the National Guard as he or she deems necessary, and may order this force into camp for instruction and drill.

(b) Until discharged by order of the ~~Commander in Chief~~ Governor, the force shall be subject to his or her order and shall be governed by the regulations ~~prescribed~~ adopted for the U.S. Army; ~~and the Commander in Chief and Air Force.~~

(c) The Governor may order the ~~same~~ National Guard into camp for instruction and drill when, in his or her judgment, the interests of the State require.

Sec. 27. 20 V.S.A. § 602 is amended to read:

§ 602. ~~ADDITIONAL FORCE~~

~~In case of riot, rebellion or insurrection within this state, or in case of invasion or imminent danger thereof, the commander in chief may raise from the enrolled national guard by draft or otherwise, such additional force as he or she deems necessary; and such additional force, while continued in service, shall be subject to the provisions of this chapter. [Repealed.]~~

Sec. 28. 20 V.S.A. § 603 is amended to read:

§ 603. ARMS AND EQUIPMENT; PAY AND RATIONS

When the National Guard, or a part thereof of it, is ordered out ~~under the provisions of pursuant to~~ section 366, or 601, ~~or 602~~ of this title, the State shall furnish arms and equipment necessary for each officer, warrant officer, and enlisted person; and they shall be entitled to pay, subsistence, and quarters allowance equivalent to that paid to members of the U.S. Armed Forces for officers, warrant officers, and enlisted persons of corresponding grade and time in service as designated in the U.S. Armed Forces pay tables.

Sec. 29. 20 V.S.A. § 604 is amended to read:

§ 604. FAILURE OF MEMBER OF NATIONAL GUARD TO REPORT

When ordered out, a member of the ~~national guard~~ National Guard who does not appear at the time and place designated shall be taken to be absent without leave and be dealt with as in ~~actual service~~ State active duty status.

Sec. 30. 20 V.S.A. § 606 is amended to read:

§ 606. CONTROL OF ~~MILITIA~~ NATIONAL GUARD ASSISTING CIVIL
OFFICER

When a portion of the ~~national guard~~ National Guard is called out to assist a civil officer in the service of legal process, it shall be under the immediate command of the ~~military officer~~ National Guard member of the highest in rank who is present, who. The National Guard member in command shall act under and be subject to the general direction of ~~such~~ the civil officer.

Sec. 31. 20 V.S.A. § 607 is amended to read:

§ 607. STATE ACTIVE DUTY DEATH BENEFIT

There is established a death benefit in the amount of \$50,000.00 for each ~~activated Vermont national guard~~ National Guard member who dies while on ~~state~~ State active duty or as the result of injuries incurred while on ~~state~~ State active duty, provided the death or the injuries that result in death resulted from performing ~~state~~ State active duty or from engaging in conduct related to ~~state~~ State active duty.

Sec. 32. 20 V.S.A. § 608 is amended to read:

§ 608. CIVILIAN LEAVE OPTION

If any member of the Vermont National Guard is ordered to State active duty by the Governor, the service member shall have the right to take leave without pay from his or her civilian employment and shall be entitled to the

protections and rights provided pursuant to 21 V.S.A. § 491. No member of the National Guard shall be required to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service.

Sec. 33. 20 V.S.A. § 609 is amended to read:

§ 609. STAY OF LEGAL PROCEEDINGS BECAUSE OF SERVICE IN
NATIONAL GUARD

(a)(1) If a ~~service~~ member of the Vermont National Guard who is ordered to State active duty by the Governor is a party to a civil or administrative proceeding in any Vermont court, the proceeding:

* * *

(2) A motion for a stay under this subsection may be filed or the court may issue ~~such~~ a stay at any time during the period of State active service duty. Any stay issued shall not remain in effect for more than 30 days after the completion of State active duty.

(b) An application for a stay pursuant to subdivision (a)(1)(B) of this section shall include a letter or other communication from the member or a person on his or her behalf setting forth facts stating the manner in which the member's duty requirements materially affect the member's ability to appear and stating a date when the member is expected to be available to appear,

together with any necessary information from the member's commanding officer.

* * *

Sec. 34. 20 V.S.A. § 641 is amended to read:

§ 641. WHEN AND BY WHOM CALLED OUT

Upon the ~~requisition~~ request of the president of the United States, and in case of war or invasion, or to prevent insurrection or invasion, the ~~commander in chief~~ Governor may call out ~~from time to time, for the actual service, by draft or otherwise~~ as many of the ~~entire national guard~~ Vermont National Guard as the ~~necessity of the case requires~~ circumstances require. The ~~enrolled national guard~~ National Guard, when so ordered ~~for preparation to prepare~~ for actual service, shall be administered and trained according to the laws of this ~~state~~ State and of the United States. On the termination of the emergency, all persons discharged from the military service who were, upon draft into federal service, members of the ~~national guard~~ of Vermont National Guard shall resume their membership in the ~~national guard~~ Vermont National Guard, and shall continue to serve in the ~~national guard~~ Vermont National Guard until the dates upon which their enlistments prior to their draft would have expired if uninterrupted.

Sec. 35. 20 V.S.A. § 642 is amended to read:

§ 642. FAILURE TO REPORT

Each officer, noncommissioned officer, and ~~private~~ enlisted person ordered out, and every volunteer or drafted ~~man~~ person, who fails to appear at the time and place designated, without rendering a sufficient excuse ~~therefor~~ for the failure, shall be dealt with as provided by the laws of the United States in like cases.

Sec. 36. 20 V.S.A. § 643 is amended to read:

§ 643. ~~SUBSISTENCE AND TRANSPORTATION~~

~~When the commander in chief calls out the national guard of the state pursuant to the requisition of the president of the United States, he or she is hereby authorized to provide for such national guard at the expense of the state State, all necessary food, uniforms, arms, equipments, clothing, vehicles, camp equipage, and means of transporting such force into the service of the United States. [Repealed.]~~

Sec. 37. 20 V.S.A. § 645 is amended to read:

§ 645. ~~PLEDGE OF CREDIT TO RAISE FUNDS~~

~~Upon approval of the governor, the state treasurer is hereby authorized to pledge the credit of the state for the purpose of raising the necessary funds to carry out the provisions of section 643 of this title. [Repealed.]~~

Sec. 38. 20 V.S.A. § 701 is amended to read:

§ 701. OATHS OF OFFICERS

(a) A person commissioned as an officer or warrant officer of the National Guard, within the time designated by the ~~Commander in Chief~~ Governor after ~~such~~ the commission is tendered to the officer, shall take and subscribe to the oath as required by federal law and regulations before a civil officer legally qualified to administer oaths, or before a National Guard officer or warrant officer who has previously taken and subscribed the oath; ~~provided that the~~.

(b) The oath shall contain obligations of allegiance to the State and to the United States, ~~and or~~, in the absence of federal law or regulations upon the subject, the oath shall be as prescribed by the ~~Commander in Chief~~ Governor.

(c) In case of neglect or refusal to take the oath within the time specified, the officer shall be deemed to have resigned his or her office and a new election shall be ordered or appointment made as required by law.

Sec. 39. 20 V.S.A. § 702 is amended to read:

§ 702. OATHS OF ENLISTED MEMBERS

(a) At the time of their enlistment, all enlisted members of the National Guard shall take and subscribe to the oath and contract prescribed by federal law and regulations before a National Guard officer or warrant officer who has taken and subscribed to the oath for officers ~~prescribed in~~ pursuant to section 701 of this ~~title; provided that the~~ chapter.

(b) The oath shall contain obligations of allegiance to the State and to the United States. In the absence of applicable federal law or regulations, the oath and contract shall be as prescribed by the ~~Commander in Chief~~ Governor.

Sec. 40. 20 V.S.A. § 703 is amended to read:

§ 703. DUTIES OF OFFICERS

Commissioned officers shall obey orders received from superior officers; attend drills, parades, inspections, and reviews prescribed or authorized by this chapter; make ~~such~~ returns as pursuant to the direction of the ~~Commander in Chief~~ Governor or rules adopted by the Adjutant and Inspector General; perform other duties incident to their positions under the Constitution and laws of this State and of the United States; and conform to rules adopted by the ~~Commander in Chief~~ Adjutant and Inspector General.

Sec. 41. 20 V.S.A. § 704 is amended to read:

§ 704. DUTIES OF ENLISTED MEMBERS

Enlisted members shall obey orders received from their officers to attend drills, parades, inspections, and reviews directed or authorized by this chapter, ~~prescribed for them to attend~~, and perform the duties incident to their respective positions, subject to the rules adopted by the ~~Commander in Chief~~ Adjutant and Inspector General.

Sec. 42. 20 V.S.A. § 821 is amended to read:

§ 821. ~~BOND OF OFFICERS RESPONSIBLE FOR PROPERTY OR
FUNDS~~

~~Before assuming such responsibility, all officers who are responsible for public military property or funds shall give a bond to the state treasurer, with sufficient surety or sureties, in such sum as the commander in chief requires, conditioned for the faithful performance of their duties. [Repealed.]~~

Sec. 43. 20 V.S.A. § 822 is amended to read:

§ 822. DAMAGED OR DESTROYED PROPERTY

When military arms, stores, uniforms, equipment, or property of any kind belonging to the ~~state~~ State become damaged, partially or wholly unfit for use, or partially or wholly destroyed, the officer ~~having such~~ responsible for the property ~~in charge~~ may request the ~~commander in chief~~ Adjutant and Inspector General to appoint a board of inspection to examine and report as to its condition.

Sec. 44. 20 V.S.A. § 823 is amended to read:

§ 823. STORAGE OF PROPERTY

Military stores belonging to the State not issued to the National Guard, and military property belonging to the United States in possession of the State and not issued to the National Guard, shall be stored in the State, ~~and the~~ Commander in Chief. The Adjutant and Inspector General shall adopt the

necessary rules to secure the safekeeping of military property issued to the National Guard.

Sec. 45. 20 V.S.A. § 824 is amended to read:

§ 824. UNIFORMS AND EQUIPMENT

The uniforms and equipment of organizations and members of the National Guard shall be as prescribed and furnished by the federal government ~~but the Commander in Chief may permit modifications or additions as he or she deems for the best interests of the State, consistent with law and federal regulations for the government of the National Guard.~~

Sec. 46. 20 V.S.A. § 884 is amended to read:

§ 884. EXEMPTION FROM ARREST

Officers, noncommissioned officers, ~~musicians and privates enrolled in this state, while under orders for service under the government of the United States or under authority of this state~~ and enlisted persons who are members of the Vermont National Guard and on federal or State active duty, except ~~for~~ in the case of treason, felony and, or breach of the peace, shall be privileged from arrest and imprisonment by civil authority, from the date ~~of the issuing of such orders to~~ they are ordered to active duty until the time of their discharge from ~~service~~ active duty.

Sec. 47. 20 V.S.A. § 885 is amended to read:

§ 885. BREVET RANK

When he or she deems it ~~for~~ to be in the best interest of the ~~service~~ Vermont National Guard, ~~by and with the advice and consent of the senate,~~ the ~~governor~~ Governor may, with the advice and consent of the Senate, confer brevet rank upon ~~such~~ officers and enlisted members of the ~~military service of the state as~~ Vermont National Guard who have performed gallant, faithful, or meritorious service in the line of duty. A brevet rank conferred pursuant to this section shall only apply in the State of Vermont.

Sec. 48. 20 V.S.A. § 886 is amended to read:

§ 886. RETIREMENT OF OFFICERS

A member of the ~~national guard who has served faithfully therein for a period of not less than ten years, at least five years of which shall have been as a commissioned officer, at his or her own request, may be placed on the retired list with the highest rank held by him or her during such service; and if a commissioned officer who has not had the full length of service herein required, becomes permanently disabled to perform his or her duties, upon his or her own application, in the discretion of the commander in chief, he or she~~ National Guard may be placed upon the retired list ~~with the rank last held by him or her as provided pursuant to the provisions of 10 U.S.C. chapters 69 and 1225, and any applicable regulations adopted by the Secretary of Defense.~~

Sec. 49. 20 V.S.A. § 887 is amended to read:

§ 887. ~~PRIVILEGES~~

~~Officers of the retired list shall be borne on the roster of the national guard as so retired, and shall be entitled to wear the uniform of the highest grade attained by them on all occasions of military ceremony, but shall receive no compensation from the state. [Repealed.]~~

Sec. 50. 20 V.S.A. § 941 is amended to read:

§ 941. STATEMENT OF POLICY ON MILITARY JUSTICE

An offense committed by a member of the ~~national guard~~ National Guard shall be tried in civil courts and prosecuted by civil authorities except offenses of a purely military nature. This policy shall be executed and carried into effect at all times and applies to all encampments, armory drill periods, and parade periods in addition to any duty performed ~~by the militia under~~ pursuant to sections 366, and 601 and 602 of this title.

Sec. 51. 20 V.S.A. § 943 is amended to read:

§ 943. SENTENCE; WARRANT FOR COMMITMENT

Courts-martial, including summary courts, may sentence to confinement in lieu of fines imposed, provided that such sentence of confinement shall not exceed one day for each dollar of ~~such~~ the fine. The warrant for commitment to the custody of the ~~commissioner of corrections~~ Commissioner of Corrections shall be substantially in the following form:

STATE OF VERMONT, To any sheriff or constable in the ~~state~~ State,

..... County, ss. } Greeting:

WHEREAS of
in the county of a (~~state~~ State rank)
of (~~state~~ State organization) of the ~~national guard~~ National Guard,
was on the day of 20, by a
court-martial duly appointed and acting under authority of law, adjudged
guilty of a military offense, viz.: (describe the offense) and sentenced to pay
a fine of dollars and cents. And whereas such
sentence has been duly approved and such fine has not been paid or
remitted, now therefore:

BY THE AUTHORITY OF THE STATE OF VERMONT, you are
hereby commanded to take the body of the said
..... and commit him or her to the custody of
the ~~commissioner of corrections~~ Commissioner of Corrections, who is hereby
commanded to receive the body of the said and him or her
safely keep for the term of days, unless sooner discharged
according to law.

Fail not, but service and return make according to law.

Dated at in the county of this
..... day of 20

.....

President of Court-Martial, or Summary Court.

Sec. 52. 20 V.S.A. § 944 is amended to read:

§ 944. EXECUTION OF PROCESSES AND SENTENCES

All processes and sentences of courts-martial shall be executed by civil officers of the ~~state~~ State authorized to execute similar processes of the civil courts, and shall be returned to the court issuing the same.

Sec. 53. 20 V.S.A. § 961 is amended to read:

§ 961. COMMANDING OFFICER NONJUDICIAL DISCIPLINE

(a)(1) A commanding officer may impose nonjudicial discipline upon a service member for minor military offenses without the intervention of a court-martial in accordance with the provisions of this subchapter.

* * *

(3) As used in this section, “commanding officer” shall include an ~~officer in charge~~ officer in charge.

* * *

(c) A commanding officer of the grade of major or above may impose upon enlisted members of the officer’s command:

* * *

(5) for members who are serving on full-time military orders in excess of 179 days, the imposition of extra duties for up to 45 days ~~which~~ that need

not be consecutive, and, for all others, the imposition of extra duties for up to 14 days ~~which~~ that need not be consecutive; and

(6) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, ~~which~~ that need not be consecutive.

* * *

Sec. 54. 20 V.S.A. § 962 is amended to read:

§ 962. SERVICE MEMBERS SUBJECT TO NONJUDICIAL DISCIPLINE

(a) A service member subject to nonjudicial discipline under this subchapter shall, during the course of his or her disciplinary proceedings, have the right to:

* * *

(3) call and examine witnesses, to the extent ~~witness~~ witnesses are reasonably available.

* * *

Sec. 55. 20 V.S.A. § 1151 is amended to read:

§ 1151. ORGANIZATION AND MAINTENANCE

(a) Whenever any part of the National Guard of this State is in active federal service, the Governor ~~is hereby authorized to~~ may organize and maintain within this State ~~during such period, under the regulations that the Secretary of the U.S. Army may prescribe for the organization, standards of~~

~~training, instruction, and discipline, such~~ any military forces as the Governor ~~may deem~~ deems necessary to defend ~~this~~ the State.

(b) The forces shall be:

(1) composed of officers commissioned or assigned, and any able-bodied citizens of the State ~~as shall~~ who volunteer for service, ~~supplemented, if necessary, by members of the unorganized militia enrolled by draft or otherwise as provided by law;~~

(2) additional to and distinct from the National Guard and shall be known as the Vermont State Guard;

(3) uniformed; ~~and~~

(4) located in places having National Guard units in federal service and, provided adequate personnel are available for service, ~~such~~ other places the Governor may direct ~~provided adequate personnel are available for such service; and~~

(5) subject to regulations adopted by the Secretary of the Army for the organization, training, instruction, and discipline of similar military forces.

Sec. 56. 20 V.S.A. § 1152 is amended to read:

§ 1152. AUTHORITY OF GOVERNOR TO ADOPT RULES

The Governor ~~is hereby authorized to~~ may adopt rules ~~not inconsistent~~ consistent with the provisions of ~~part 3~~ this chapter and chapters 63 and 65 of this title governing the enlistment, organization, administration, equipment,

maintenance, training, and discipline of ~~forces; provided, however, that the~~
State Guard. The rules, ~~insofar as he or she~~ to the extent the Governor deems
practicable and desirable, shall conform to existing law and rules governing
~~and pertaining to the National Guard and the rules adopted thereunder,~~ and
~~such~~ applicable regulations as adopted by the Secretary of the Army ~~may~~
~~prescribe.~~

Sec. 57. 20 V.S.A. § 1153 is amended to read:

§ 1153. EQUIPMENT AND FACILITIES

For the use of the ~~forces described in this chapter~~ State Guard, the Governor
~~is hereby authorized to requisition~~ may request from the Secretary of the Army
any arms, ammunition, clothing, and equipment that the Secretary of the Army,
in his or her discretion and under regulations ~~determined~~ adopted by him or
her, is authorized to issue and to make available to the ~~forces~~ State Guard, the
facilities of State armories and their equipment, and other State premises and
property ~~as may be~~ that are available.

Sec. 58. 20 V.S.A. § 1154 is amended to read:

§ 1154. SERVICE OUTSIDE STATE

(a) ~~Such forces should~~ The State Guard shall not be required to serve
outside the boundaries of this ~~state~~ State except:

(1) Upon the request of the governor of another state, the ~~governor of~~
~~this state~~ Governor may, in his or her discretion, order any portion or all of

~~such forces~~ the State Guard to assist the military or police forces of ~~such the~~ other state who are actually engaged in defending ~~such the~~ other state. ~~Such forces~~ The State Guard may be recalled by the ~~governor~~ Governor at his or her discretion.

(2) Any organization, unit, or detachment of ~~such forces~~ the State Guard, upon order of the officer in immediate command ~~thereof of it~~, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this ~~state~~ State into another state until they are apprehended or captured by ~~such the~~ organization, unit, or detachment, or until the military or police forces of the other state or ~~the forces~~ of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture ~~such the~~ persons, provided, that ~~such the~~ other state shall have given authority by law for ~~such the~~ pursuit by ~~such forces of this state~~ the State Guard.

(b) Any ~~such person who shall be~~ apprehended or captured in ~~such other~~ another state by an organization, unit, or detachment of the ~~forces of this state~~ State Guard shall without unnecessary delay be surrendered to the military or police forces of the state in which he or she is taken or to the United States, ~~but~~ such. The surrender of the person who is apprehended or captured shall not constitute a waiver by this ~~state~~ State of its right to extradite or prosecute ~~such~~ the person for any crime committed in this ~~state~~ State.

Sec. 59. 20 V.S.A. § 1155 is amended to read:

§ 1155. MILITARY SERVICE OF UNITED STATES

(a) Nothing in ~~part 3~~ this chapter or chapters 63 and 65 of this title shall be construed as authorizing ~~such forces~~ the State Guard, or any part ~~thereof~~ of it, to be called, ordered, or in any manner drafted, ~~as such~~, into the ~~military service of the United States, but no~~ U.S. Armed Forces.

(b) No person shall, by reason of his or her membership in any unit of ~~any such military forces~~ the State Guard, be exempted from military service under any federal law.

Sec. 60. 20 V.S.A. § 1156 is amended to read:

§ 1156. ~~ARTICLES OF WAR~~ UNIFORM CODE OF MILITARY JUSTICE
IN RELATION TO COURTS-MARTIAL

Whenever the ~~forces described in this chapter~~ State Guard, or any part ~~thereof~~ of it, ~~shall be~~ is ordered out for active service, the ~~Articles of War of the United States~~ Uniform Code of Military Justice applicable to members of the National Guard ~~of this State~~ in relation to courts-martial, their jurisdiction, and the limits of punishment, and ~~the~~ any rules and regulations ~~prescribed under the Articles of War~~ adopted pursuant to the Uniform Code of Military Justice shall ~~be in full force and effect with respect~~ apply to the Vermont State Guard.

Sec. 61. 20 V.S.A. § 1157 is amended to read:

§ 1157. WHEN EFFECTIVE

~~Part 3 This chapter and chapters 63 and 65 of this title shall take effect from its passage, shall be suspended upon determination and proclamation by the governor and the emergency board that a substantial part of the national guard is available for duty within the state, and shall be effective after such suspension upon a determination and proclamation by the governor~~ Governor and the ~~emergency board~~ Emergency Board that a substantial part of the ~~national guard~~ National Guard is not available for duty within the ~~state~~ State, and shall be suspended upon a determination and proclamation by the Governor and the Emergency Board that a substantial part of the National Guard is available for duty within the State.

Sec. 62. 20 V.S.A. § 1211 is amended to read:

§ 1211. ELIGIBILITY

No person shall be commissioned or enlisted in ~~such forces~~ the State Guard who is not a citizen of the United States or who has been expelled or dishonorably discharged from ~~any military, naval or air organization of this state, or of another state, or of the United States~~ the U.S. Armed Forces or the National Guard of any state.

Sec. 63. 20 V.S.A. § 1212 is amended to read:

§ 1212. PRIVATE ORGANIZATIONS

No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in ~~such forces~~ the State Guard as an organization or unit.

Sec. 64. 20 V.S.A. § 1213 is amended to read:

§ 1213. OATH OF OFFICERS COMMISSIONED

The oath to be taken by officers commissioned in ~~such forces~~ the State Guard shall be substantially in the form prescribed for officers of the ~~national guard~~ National Guard, substituting the words Vermont ~~state guard~~ State Guard where necessary.

Sec. 65. 20 V.S.A. § 1214 is amended to read:

§ 1214. TERM OF ENLISTMENT; OATH

The term of enlistment for enlisted members of the State Guard shall be for either one year or for three years and ~~such enlistments~~ may be renewed, subject, ~~however,~~ to the termination or suspension of the authority for the ~~state guard~~ State Guard. The oath to be taken upon enlistment in ~~such forces~~ the State Guard shall be substantially in the form prescribed for enlisted members of the ~~national guard~~ National Guard, substituting the words Vermont ~~state guard~~ State Guard where necessary.

Sec. 66. 20 V.S.A. § 1271 is amended to read:

§ 1271. PAY AND RATIONS

When the State Guard or any part ~~thereof shall be~~ of it is ordered out for active duty or ~~for~~ field training, ~~they~~ its members shall be entitled to the same pay and rations as the National Guard on similar duty and shall be paid under rules adopted by the Governor.

Sec. 67. 20 V.S.A. § 1274 is amended to read:

§ 1274. EXEMPTIONS

No officer or enlisted member of ~~such forces~~ the State Guard shall be arrested on any warrant, except for treason ~~or~~, felony, or breach of the peace, while going to, remaining at, or returning from a place where he or she is ordered ~~to attend~~ for military duty. Every officer and enlisted member of ~~such forces~~ the State Guard shall, during service ~~therein~~ in the State Guard, be exempt from service ~~upon~~ in any posse comitatus and from jury duty.

Sec. 68. 20 V.S.A. § 1483 is amended to read:

§ 1483. ADJUTANT GENERAL; DUTIES AS TO VETERANS' AFFAIRS

In addition to the duties elsewhere set forth by law, the ~~adjutant general~~ Adjutant and Inspector General shall:

(1) ~~Acquaint~~ acquaint himself or herself, and his or her assistants and employees, with ~~the laws~~, federal, ~~state~~ State, and local, laws enacted for the benefit of members of the ~~armed forces~~ U.S. Armed Forces and Vermont

National Guard, veterans having a discharge other than dishonorable, ~~their~~ and
the heirs or and beneficiaries of members and veterans;

(2) collect data and information as to facilities and services available to
~~them~~ members of the U.S. Armed Forces and Vermont National Guard,
veterans, and the heirs and beneficiaries of members and veterans; ~~and~~

(3) cooperate with information or service agencies throughout the ~~state~~
State, to inform members of the ~~armed forces~~ U.S. Armed Forces and Vermont
National Guard, veterans, ~~their~~ the heirs or beneficiaries of members and
veterans, and military and civilian authorities, regarding the existence or
availability of:

(A) ~~Educational~~ educational training and retraining facilities;

(B) ~~Health~~ health, medical, rehabilitation, and housing services and
facilities;

(C) ~~Employment~~ employment and reemployment services; and

(D) ~~Provisions~~ provisions of federal, ~~state~~ State, and local laws
affording rights, privileges, and benefits to members of the ~~armed forces~~ U.S.
Armed Forces and Vermont National Guard, and veterans; and their families
and dependents, and other matters of similar, related, or appropriate nature;

(2)(4) ~~Assist~~ assist veterans and their heirs or beneficiaries in the
presentation, proof, and establishment of ~~such~~ claims, privileges, rights, and
other benefits ~~as they may have~~ under federal, ~~state~~ State, or local laws; and

~~(3)(5) Cooperate~~ cooperate with all national, ~~state~~ State, and local governmental and private agencies in securing services or any benefits to veterans; and their families and dependents.

Sec. 69. 20 V.S.A. § 1484 is amended to read:

§ 1484. ASSISTANTS; OFFICE SPACE

Subject to the approval of the ~~governor~~ Governor, the ~~adjutant general~~ Adjutant and Inspector General may employ ~~such assistants~~, expert and clerical; assistants as ~~may be~~ necessary to administer the functions and duties of the ~~adjutant general~~ as Adjutant and Inspector General with respect to veterans' affairs, and shall fix their compensation within the amounts made available by appropriation ~~therefor~~ for those functions and duties.

Sec. 70. 20 V.S.A. § 1485 is amended to read:

§ 1485. COOPERATION WITH LOCAL ORGANIZATIONS

The ~~adjutant general~~ Adjutant and Inspector General may cooperate with local organizations in the ~~state~~ State to provide information and assistance for the purposes set forth in this chapter.

Sec. 71. 20 V.S.A. § 1486 is amended to read:

§ 1486. ACCEPTANCE OF GIFTS, ~~SERVICE~~ SERVICES, AND
FACILITIES

The ~~adjutant general~~ Adjutant and Inspector General is authorized to accept gifts, services, and facilities from any source, public or private, granted in aid

of the administration of the duties of the ~~adjutant general~~ Adjutant and Inspector General, provided that no obligation is thereby imposed by the acceptance.

Sec. 72. 21 V.S.A. § 491 is amended to read:

§ 491. ABSENCE ON MILITARY SERVICE AND TRAINING;

EMPLOYMENT AND REEMPLOYMENT RIGHTS

(a)(1) Any duly qualified member of the Reserve Components of the U.S. Armed Forces, of the Ready Reserve, or an organized unit of the Vermont National Guard or the National Guard of another state shall ~~upon~~, when called to state or federal service, receive the same benefits, privileges, and protections in employment regardless of the activation authority or location of service.

(2)(A) Upon request, a duly qualified member of the Reserve Components of the U.S. Armed Forces, of the Ready Reserve, or the Vermont National Guard or the National Guard of another state shall be entitled to leaves of absence for a total of 15 days in any calendar year for the purpose of engaging a leave of absence to engage in military drill, training, or other temporary duty under military authority pursuant to state or federal military orders.

(B) A member of the Vermont National Guard or the National Guard of any state or territory who is ordered to state active duty shall be subject to the requirements of and entitled to the rights, privileges, benefits, and

protections provided by the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301–4335.

~~(C) A leave of absence shall be with or without pay as determined by the employer. Upon completion of the military drill, training, or other temporary duty under military authority, a permanent employee shall be reinstated in that position with the same status, pay, and seniority, including seniority that accrued during the period of absence.~~

(b) A member of or an applicant for membership in the National Guard in either federal or state status as defined in 20 V.S.A. §§ 366; and 601, ~~or 602~~, shall not be denied initial employment, reemployment, retention of employment, promotion, or any benefit of employment by an employer on the basis of membership, application for membership, performance of service, application for service, or obligation to serve.

* * *

Sec. 73. EFFECTIVE DATE

This act shall take effect on July 1, 2021.