

Introduced by

Judiciary Committee

(At the request of the Adjutant General)

1 A BILL for an Act to amend and reenact sections 37-01-03, 37-01-22, and 37-01-43 and
2 subsection 7 of section 37-28-02 of the North Dakota Century Code, relating to operation of the
3 North Dakota national guard.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 37-01-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **37-01-03. Articles of uniform code of military justice applicable in state - Regulations**
8 **governing - Punishment for offenses while on duty.**

9 The articles of uniform code of military justice governing the armed forces of the United
10 States as codified in the Manual for Courts-Martial, United States, ~~1984 (1998 edition)~~ as
11 effective through 2010, now in effect, are a part of this title so far as the same are applicable
12 and not modified by any provision of this title. A person who commits an offense while on duty
13 may be tried by a court-martial lawfully appointed even after such duty has terminated, and if
14 found guilty, the accused must be punished according to the articles of uniform code of military
15 justice and the rules and regulations governing the armed forces of the United States and within
16 the limits prescribed in this title and by federal law for the courts-martial in the national guard. In
17 any case in which the person alleged to have committed the offense could be charged either
18 under the code of military justice or the civil law of this state, the officer whose duty it is to
19 approve such charge, in the officer's discretion, may order the person charged or subject to
20 being charged to be turned over to the civil authorities for trial. Whenever reference is made to
21 the articles of uniform code of military justice, to the military service, or to the armed forces of
22 the United States, such reference shall be deemed to include the military service of this state.
23 The intent of this title and of all laws of this state affecting the military forces is to conform to all

1 acts and regulations of the United States affecting the same subjects, and all laws of this state
2 shall be construed to effect this purpose.

3 **SECTION 2. AMENDMENT.** Section 37-01-22 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **37-01-22. Governor may make rules and regulations governing military forces in state**
6 **- Limitations - Effect.**

7 The governor may make such rules and regulations as deemed expedient for the
8 government of the military forces of this state, but such rules and regulations must conform to
9 the provisions of this title and, as nearly as practicable, to those governing the ~~United States~~
10 ~~army~~armed forces of the United States. When promulgated, such rules and regulations have
11 the same force and effect as the provisions of this title and may not be repealed, altered,
12 amended, or added to except by the commanding officer of the national guard with the approval
13 of the governor.

14 **SECTION 3. AMENDMENT.** Section 37-01-43 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **37-01-43. North Dakota military civil relief act.**

17 A person called or ordered to active service for thirty consecutive days or longer has all of
18 the protections afforded to persons in the military service of the United States under the
19 ~~Soldiers and Sailors Civil Relief Act of 1940 [Pub. L. 102-12; 105 Stat. 34; 50 U.S.C. 501-548~~
20 ~~and 560-593]~~Servicemembers Civil Relief Act, as effective through December 2003 [50 U.S.C.
21 App. sections 501-596].

22 **SECTION 4. AMENDMENT.** Subsection 7 of section 37-28-02 of the North Dakota Century
23 Code is amended and reenacted as follows:

- 24 7. a. "Resident" means a veteran who was a bona fide resident of the state of North
25 Dakota at the time of mobilization or, in the case of an active component
26 member, at the time of deployment for which the member received an
27 expeditionary medal or campaign badge, as determined under the rules of the
28 adjutant general and the laws of this state. "Resident" includes all mobilized
29 members of the North Dakota national guard.
- 30 b. "Veteran" means a member of the national guard or reserve component who was
31 activated under 10 U.S.C. 12301, as effective through October 2004, and

1 10 U.S.C. 12302, as effective through 2004, and who completed honorable and
2 faithful service of more than thirty days on active duty in the armed forces of the
3 United States at any time during the period of service, or active component
4 member awarded the expeditionary medal or campaign badge for service after
5 December 5, 1992, who was a resident of the state of North Dakota, and who
6 has not received bonus or adjusted compensation from another state for the
7 period of service.