

Subject Ecklund

Authors Veterans and Military Affairs Omnibus Finance and Policy Bill

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### Overview

This bill contains appropriations to the Departments of Military Affairs and Veterans Affairs. The bill also contains a variety of policy proposals related to the two agencies.

## Article 1: Appropriations (Veterans and Military Affairs)

This article contains appropriations to the Department of Military Affairs and the Department of Veterans Affairs. [HF 1032, Article 1, sections 36 and 37]

### Section Description – Article 1: Appropriations (Veterans and Military Affairs)

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**1 Appropriations.**

Provides general guidance on the appropriations in sections 2 and 3.

**2 Military affairs.**

**Subd. 1. Total appropriation.** Appropriates \$24,393,000 the first year and \$24,589,000 the second year to the Department of Military Affairs.

**Subd. 2. Maintenance of training facilities.** Appropriates \$9,772,000 the first year and \$9,842,000 the second year to maintain training facilities.

**Subd. 3. General support.** Appropriates \$3,507,000 the first year and \$3,633,000 the second year for general support.

**Subd. 4. Enlistment incentives.** Appropriates \$11,114,000 each year for enlistment incentives.

**3 Veterans affairs.**

**Subd. 1. Total appropriation.** Appropriates \$84,168,000 in the first year and \$84,364,000 in the second year to the Department of Veterans Affairs.

**Section Description – Article 1: Appropriations (Veterans and Military Affairs)**

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**Subd. 2. Veterans programs and services.** Appropriates \$22,048,000 the first year and \$21,678,000 the second year for the following veterans programs and services:

- Counseling and Case Management Outreach Referral and Education (CORE)—\$750,000 each year;
- veterans service organizations—\$500,000 each year;
- Minnesota Assistance Council for Veterans (MACV)—\$750,000 each year;
- state’s veterans cemeteries—\$1,672,000 each year;
- honor guards—\$200,000 each year;
- MN GI Bill—\$200,000 each year;
- Gold Star Program—\$100,000 each year;
- County Veterans Service Offices—\$1,100,000 each year;
- Veteran Homelessness Initiative—\$3,018,000 each year;
- Independent Lifestyles—\$75,000 each year [H.F. 1227];
- Veterans on the Lake—\$50,000 the first year; and
- Disabled Veterans Rest Camp—\$128,000 the first year [H.F. 1127].

**Subd. 3. 9/11 Task force.** Appropriates \$400,000 the first year for the Advisory Task Force on 9/11 and GWOT.

**Subd. 4. Veterans health care.** Appropriates \$62,120,000 the first year and \$62,686,000 the second year to veterans health care. Requires the commissioner to submit a report to the legislature on reserve amounts maintained in the veterans home special revenue account.

**Subd. 5. Veterans suicide prevention initiative.** Appropriates \$1,000,000 the first year and \$650,000 the second year for veteran suicide prevention.

**Subd. 6. Veterans resilience project; report.** Appropriates \$50,000 each year to the veterans resilience project. [H.F. 792]

## **Article 2: Policy (Military and Veterans Affairs)**

This article contains changes to statutes that relate to military and veterans affairs.

**Section Description – Article 2: Policy (Military and Veterans Affairs)**

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- 1 Veterans suicide prevention and awareness day.**  
Renames Veterans Suicide Awareness Day as Veterans Suicide Prevention and Awareness Day. Directs the commissioner of veterans affairs to coordinate activities that raise awareness of, and promote the prevention of, veteran suicides. **[H.F. 478]**
- 2 Publicity representatives.**  
Authorizes the Department of Veterans Affairs to use funds to pay a publicity representative. **[H.F. 484]**
- 3 Appointment; qualifications; rank; term; vacancy.**

  - Subd. 1. Qualifications.** Dictates that the governor must appoint a replacement adjutant general (AG) within 120 days of the position becoming vacant. Removes the restriction that the AG come exclusively from the ranks of the Minnesota National Guard. Requires that the AG hold the rank of colonel or above.
  - Subd. 2. Rank.** Dictates that the AG hold the rank of major general and be promoted to that rank upon appointment.
  - Subd. 3. Term.** Specifies that the AG shall serve a single term of seven years.
  - Subd. 4. Vacancy; acting or temporary adjutant general.** Establishes protocols for appointing an acting AG and provides that the deputy AG shall temporarily fill a vacancy if the governor does not appoint an acting AG. **[H.F. 752]**
- 4 Veterans stable housing initiative; data.**  
Authorizes the commissioner of veterans affairs to establish a veterans stable housing initiative that would provide resources and support to assist veterans experiencing homelessness. The bill also authorizes the Minnesota Department of Veterans Affairs to share or disclose a veteran’s data to coordinate homelessness prevention efforts with Minnesota Interagency Council on Homelessness members and Homeless Veterans Registry partners to respond quickly to a veteran experiencing homelessness or at risk of homelessness. **[H.F. 592]**
- 5 Eligibility.**  
Corrects ambiguities in, and clarifies eligibility for benefits under, the Minnesota GI Bill, which provides qualified veterans with reimbursement for college expenses, approved on-the-job training (OJT) and apprenticeship programs, and professional licensure and certification costs. **[H.F. 585]**
- 6 Educational assistance amount.**  
Corrects ambiguities in, and clarifies eligibility for benefits under, the Minnesota GI Bill. **[H.F. 585]**

**Section Description – Article 2: Policy (Military and Veterans Affairs)**

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- 7      **Apprenticeship and on-the-job training.**  
Corrects ambiguities in, and clarifies eligibility for benefits under, the Minnesota GI Bill. [H.F. 585]
- 8      **Additional professional or educational benefits.**  
Corrects ambiguities in, and clarifies eligibility for benefits under, the Minnesota GI Bill. [H.F. 585]
- 9      **Supplemental programs.**  
Explicitly authorizes the commissioner of veterans affairs to operate adult day care programs for veterans. With express authority to operate adult care programs, the commissioner will be empowered to develop and adopt the necessary rules, policies, and procedures to operate and manage the programs.  
  
Authorizes the commissioner of veterans affairs to provide dental care services directly to residents of state veterans homes. [H.F. 88 and H.F. 281]
- 10     **Cost of care.**  
Establishes requirements the commissioner of veterans affairs to calculate the personal needs allowance for domiciliary residents.
- 11     **Military veteran offenders restorative justice sentence.**  
    **Subd. 1. Offenses as a result of military service; presentence supervision procedures.** (a) Requires sentencing courts to determine if a defendant is a current or past service member and suffering from trauma or mental health issues if the defendant: (1) is charged with a severity level 7 or lower offense; and (2) claims the offense was committed due to a service connected sexual trauma, traumatic brain injury, PTSD, substance abuse or mental health condition.  
  
    (b) Requires defendants who request a restorative justice sentence to provide clear and convincing evidence of their service-connected trauma to the court and prosecutor.  
  
    (c) Requires a court to place an offender who meets the criteria established in paragraph (a) and who pleads guilty to the offense on probation while staying adjudication of the case. Provides guidance on veterans receiving a subsequent restorative justice sentence for a new offense.  
  
    (d) Permits the court to proceed with adjudication if the veteran violates the terms of the veteran’s probation.  
  
    (e) Encourages the court to require the veteran to attend a treatment program.

**Section Description – Article 2: Policy (Military and Veterans Affairs)**

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(f) Makes a veteran eligible for sentence credits for time spent in residential treatment.

(g) Provides guidance to the court in selecting a treatment program for the veteran.

(h) Directs the court and treatment program to collaborate with veteran service officers and the U.S. Department of Veterans Affairs.

(i) Provides guidance on how veterans sentenced under this section should be treated in Veterans Court.

(j) Requires veterans sentenced under this section to forfeit their right to administrative review of DWI driver's license sanctions.

**Subd. 2. Restorative justice for military veterans; dismissal of charges.**

Establishes guidelines for discharging a veteran sentenced under subdivision 1 and restoring the veteran to the "community of law abiding citizens." The records of a case discharged under this subdivision are "not public" and may only be opened in a limited number of circumstances. Prohibits the dismissal of a case that requires predatory offender registration.

**Subd. 3. Optional veterans treatment court program; procedures for eligible defendants.** Authorizes veterans treatment court programs to supervise veterans placed on probation under this section. Defines "veterans treatment court program."

**Subd. 4. Authorization for creation of county and city diversion programs.** Authorizes counties and cities to establish and operate veterans pretrial diversion programs for eligible veterans.

**Subd. 5. Exception.** Excludes veterans charged with offenses that trigger predatory offender registry from taking advantage of most of the provisions of this section.

**Effective date.** August 1, 2021. [H.F. 478]

12 **Revisor instruction.**

Contains a revisor instruction to implement changes in sections 5 to 8 of this article. [H.F. 585]

## Article 3: Data Access

This article contains three data related policy changes. **[H.F. 1442, Article 1]**

Section	Description – Article 3: Data Access
1	<b>Military personnel data.</b> Declares that “military personnel data” is private data on individuals.
2	<b>National Guard.</b> Clarifies that certain data regarding members of the National Guard is inherently federal data, and therefore subject to the Freedom of Information Act rather than the Minnesota Data Practices Act.
3	<b>Offenders; transfer to civil authorities; service member data.</b> Requires that law enforcement data on National Guard members must be released to the adjutant general upon request of the Office of the Staff Judge Advocate.

## Article 4: Bar Admission; Judicial Qualifications

This section authorizes military attorneys who are not members of the Minnesota bar to practice law and serve as military judges in Minnesota under certain circumstances. **[H.F. 1442, Article 2]**

Section	Description – Article 4: Bar Admission; Judicial Qualifications
1	<b>Practice of military law.</b> Establishes the criteria for a military lawyer who is not a member of the Minnesota bar to practice in the state.
2	<b>Establishment.</b> Conforming change related to section 3.
3	<b>Qualifications of military judge.</b> Broadens the group of military attorneys who may serve as military judges in the state.
4	<b>Qualifications of counsel.</b> Broadens the group of military attorneys who may serve as trial and defense counsel in military actions.

## Article 5: Jurisdiction Changes

This article broadens personal jurisdiction under the MCMJ and incorporates by reference the United States - Uniform Code of Military Justice (US-UCMJ). [H.F. 1442, Article 3]

Section	Description – Article 5: Jurisdiction Changes
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| 1 | <b>Military service in Minnesota.</b><br>Expands the application of personal jurisdiction over military members for purpose of the MCMJ.   |
| 2 | <b>Offenses subject to court-martial.</b><br>Specifies that the punitive articles of the United States Code of Military Justice may be prosecuted in courts-martial in this state. |

## Article 6: Trial Procedure

This article modifies policies related to courts-martial trial procedure. [H.F. 1442, Article 4]

Section	Description – Article 6: Trial Procedure
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| 1 | <b>Governor may prescribe rules.</b><br>Adds a cross-reference to the US-UCMJ.                   |
| 2 | <b>Three-year limitation.</b><br>Amends the military statute of limitation for punitive matters. |

## Article 7: Sentences

This article contains a variety of changes related to sentencing under the MCMJ. [H.F. 1442, Article 5]

Section	Description – Article 7: Sentences
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| 1 | <b>Action on findings.</b><br>Directs the courts-martial convening authority to issue a final order at the end of a courts-martial and promptly serve the order on the accused. |
| 2 | <b>Appeal forwarded.</b><br>Clarifies the appeal process in courts-martials.  |

**Section Description – Article 7: Sentences**

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- 3 **Review by state appellate authority.**  
**Subd. 1. Certiorari.** Dictates that the Minnesota Supreme Court shall hear appeals under the MCMJ.  
**Subd. 2. Service of writ.** Establishes the procedure for service of a writ of certiorari.
- 4 **Certiorari; administrative decisions.**  
Contains a conforming change to reflect that the supreme court will hear courts-martial appeals.

## **Article 8: Punitive Articles Updated**

This article contains updates to the punitive articles of the MCMJ. **[H.F. 1442, Article 6]**

**Section Description – Article 8: Punitive Articles Updated**

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- 1 **Purely military offenses.**  
Details the Bureau of Criminal Apprehension (BCA) to investigate military offenses when the governor or adjutant general so requests. Adds new military specific offenses to the existing list of “purely military offenses.”
- 2 **Maximum limits.**  
**Subd. 1. Punishment limits.** Places limits on sentences for violation of the MCMJ.  
**Subd. 2. Level of offense.** Defines what constitutes a felony under the MCMJ. Specifies the level of offense that attaches to assimilated crimes.
- 3 **Under the influence of alcohol or controlled substance while on duty; sleeping on post; leaving post before relief.**  
Authorizes a courts-martial for service members who are determined to be under the influence of a controlled substance while on duty.
- 4 **Search warrants.**  
Empowers Minnesota licensed peace officers to enforce a military search warrant for offenses that occurred while a service member is in active service.
- 5 **Sections to be explained.**  
Requires that enlisted members for the National Guard receive annual notice of the military’s courts-martial authority over service members.



**Section Description – Article 8: Punitive Articles Updated**

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- 6 **Prohibited activities with military recruit or trainee by person in position of special trust.**
- Subd. 1. Definitions.** Defines terms used in this section.
  - Subd. 2. Abuse of training leadership position.** Adds the new offense of abuse of a training leadership position to the MCMJ.
  - Subd. 3. Abuse of position as military recruiter.** Adds the new offense of abuse of a military recruiting position to the MCMJ.
  - Subd. 4. Consent.** Prohibits defendants from raising consent of the victim as a defense to charges under this section.
- 7 **Nonconsensual distribution of intimate images.**
- Subd. 1. Definitions.** Defines terms used in this section.
  - Subd. 2. Crime defined.** Adds the new offense of nonconsensual distribution of intimate images to the MCMJ.
- 8 **Fraudulent use of credit cards, debit cards, and other access devices.**
- Subd. 1. Crime defined.** Adds the offense of fraudulent use of credit cards, debit cards, and other access devices to the MCMJ.
  - Subd. 2. Access device defined.** Defines “access device” for purpose of this section.
- 9 **Unauthorized use of government computer.**
- Subd. 1. Definitions.** Defines terms used in this section.
  - Subd. 2. Crime defined.** Adds the offense of unauthorized use of a government computer to the MCMJ.
- 10 **Retaliation.**
- Subd. 1. Definitions.** Defines terms used in this section.
  - Subd. 2. Crimes defined.** Adds the offense of retaliating against a person for: (1) reporting, or planning to report, a criminal offense; or (2) making, or planning to make, a protected communication, to the MCMJ.
- 11 **Repealer.**
- Repeals a personal jurisdiction statute that would be obsolete if the statutory changes proposed in this bill are enacted.



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