

93RD CONGRESS
2ND SESSION

H. R. 73

Act to Establish Military Courts within the United
States Armed Forces.

IN THE HOUSE OF REPRESENTATIVES OF THE
UNITED STATES

April 24, 2024,

Representative 103315 from the great state of Michigan
for himself has introduced the following Resolution;
which shall be read on the House floor and referred to
the appropriate committee.

AN ACT

**To Establish Military Courts within the United
States Armed Forces.**

*Be it enacted by the Senate and House of Representatives
of the United States in Congress Assembled.*

SEC. 1—SHORT TITLE

- (a) This piece of legislation shall be referred to as *“H. R. 74”* or as *“Military Court Act of 2024”*

SEC. 2—GENERAL PROVISIONS

- (a) Any part of any act, joint resolution, memorandum or codified law that conflicts with this act shall be deemed null and void.
- (b) This act shall be servable, in which, if any provision of this act is found unconstitutional the rest of the act shall be in full effect unless also found unconstitutional.
- (c) This act shall go into effect immediately upon its passage and signage.

SEC. 3 PURPOSE

- (a) The Military Court Act of 2024 aims to reform the military justice system of the United States Armed Forces to ensure fairness, transparency, and accountability. The Act covers various aspects of the military justice system, including the establishment and roles of the Chief Judge Advocate General, Judge Advocate Generals for each branch of the Armed Services, and the Deputy Judge Advocate Generals. It also sets up military courts, judges, and chief judges, and establishes the Military Ethics Review Board. The Act emphasizes the importance of legal confidentiality and the roles and responsibilities of Judge Advocates, Lawyers, and Military Paralegals.

SEC. 4 REPEALS

- (a) Any section of the Uniform Code of Military Justice that mentions the Court of Appeals for the Armed Services will be repealed entirely.
- (b) All parts of the Uniform Code of Military Justice and its punitive articles that refer to

any sexual act involving humans or animals will be repealed entirely.

SEC. 5 DEFINITIONS

- (a) Military Court: Refers to the Service Courts of the Armed Forces.
- (b) Military Judge: Refers to either a Military Judge from the Service Court or the Chief Judge of the United States Armed Forces.
- (c) Uniform Code of Military Justice (UCMJ): Refers to the legal code governing military criminal justice, as provided in Chapter 47 of Title 10 of the United States Code.
- (d) Capital Offenses: Refers to serious crimes punishable under military law, including:
 - I. Perjury
 - II. Extortion
 - III. Robbery
 - IV. Manslaughter
 - V. Murder
 - VI. Espionage
 - VII. Spying
 - VIII. Misconduct of a Prisoner
 - IX. Aiding the Enemy
 - X. Subordinate Compelling Surrender
 - XI. Desertion
- (e) Armed Services: Refers to the six military branches within the United States:
 - I. United States Army
 - II. United States Marine Corps
 - III. United States Air Force
 - IV. United States Coast Guard
 - V. United States Space Force
 - VI. United States Navy

SEC. 6 ESTABLISHMENT OF THE CHIEF JUDGE ADVOCATE GENERAL

- (b) The CJAG will oversee each United States Military Branch Legal System and will be

appointed by the President from the Secretary of Defense.

(c) Responsibilities of the Chief Judge Advocate General

- I. Administration of military justice within the Armed Services.
- II. Development and issuance of policies, directives, and guidelines for uniformity and consistency in military justice.
- III. Providing military legal advice to the President, Secretary of Defense, and senior leadership.
- IV. Submitting bi-monthly reports on deficiencies within each branch's Judge Advocate General Corps, recommendations for improving the Military Justice system, and major terminations and appointments within the Office of the CJAG and the Judge Advocate General Corps.

SEC. 7 ESTABLISHMENT OF INDIVIDUAL JUDGE ADVOCATE GENERAL CORPS

- (a) The JAGC shall be an independent entity of the United States Military and the Department of Defense.
- (b) Each branch shall have a Deputy Judge Advocate General nominated by the President and confirmed by the Senate and advised by the Secretary of Defense and the CJAG. The Deputy Judge advocate general shall be responsible for representing their respective branch in the Military Court.
- (c) Responsibilities include providing legal advice, overseeing Legal Operations, ensuring impartiality, and providing regular reports to various military and governmental entities within their respective branch.
- (d) Each branch will have a Deputy Judge Advocate General appointed by the President.

- (e) The DJAG shall assist in the administration of military justice within their branch, ensuring the fair and impartial adjudication of alleged offenses in accordance with the Uniform Code of Military Justice (UCMJ) and applicable regulations. They may provide oversight and guidance to legal personnel involved in court-martial proceedings and appellate reviews.
- (f) The DJAG shall be a commissioned officer and a licensed attorney in good standing with the appropriate bar association. They shall possess strong legal expertise, leadership skills, and a comprehensive understanding of military law and operations.
- (g) (a) The Judge Advocate General of each United States Armed Services branch shall provide a report with all necessary materials to ensure transparency and to ensure the Legal Justice of all Armed Forces Personnel to the following, at least twice (2) a month:
 - I. President of the United States
 - II. Secretary of Defense
 - III. Chief Judge Advocate General of the Armed Services
 - IV. Department of Defense Leadership
 - V. Senior Military Leadership

SEC. 8 ESTABLISHMENT OF MILITARY COURTS

- (a) The United States Armed Services shall establish military courts to ensure the fair and efficient administration of military justice. Military courts shall have jurisdiction over offenses committed by military personnel subject to the Uniform Code of Military Justice (UCMJ) and applicable regulations.
- (b) The United States Armed Services shall give advice to the President of the United States on current or previous officers to serve as military

judges to preside over military court proceedings. Military judges shall be selected based on their legal expertise, impartiality, and experience in military law. They must be nominated by the President and confirmed by the United States Senate.

- (c) Military judges shall be licensed attorneys in good standing with the appropriate bar association and possess a thorough understanding of military law, rules of evidence, and legal procedures.
- (d). Military judges shall have the authority to preside over trials, make rulings on legal matters, issue orders, and administer appropriate sentences within the limits prescribed by the UCMJ. They shall ensure that proceedings are conducted in accordance with due process and the principles of military justice.

SEC. 9 MILITARY COURT COMPOSITION

- (a) The President of the United States shall nominate with Senate confirmation a Chief Military Judge to oversee the administration and operations of military courts within the United States Armed Forces.
- (b) The President of the United States shall nominate with senate confirmation a maximum of seven (7) military judges to sit on the panel of the military court within the United States Armed Forces.
- (c) The United States Congress may increase or decrease the size of the Service Court Bench.
- (d) The position of Military Judge of the Service Court shall not be defined as a Civil Office
- (e) The Military Judges of the Service Court shall serve without term limits and may only be replaced due to resignation or impeachment by the House of Representatives, followed by conviction by the Senate.

(f)

SEC. 10 DUTIES OF THE CHIEF MILITARY JUDGE

(a) The Chief Military Judge shall have the following powers and responsibilities:

- I. The Chief Military Judge shall contribute to the development and review of policies, regulations, and procedures related to military court operations, ensuring consistency and adherence to applicable laws and regulations.
- II. The Chief Military Judge shall provide regular reports to the Judge Advocate General and the senior leadership of the United States Armed Forces, summarizing the status of military court operations, significant legal developments, and any recommendations for improvement.
- III. a. The Chief Military Judge shall oversee the administration of military courts within the United States Armed Forces, including caseload management, assignment of military judges to cases, and coordination of court schedules.

SEC. 11 PROCEDURES OF COURT MARTIAL

(a) The Procedures of a Court-Martial shall be defined as 10 US Code § 830 through 10 US Code § 854.

(b) There shall be three types of Court-Martial:

- I. The Summary Court-Martial;
 - A Summary Court-Martial shall be used to try enlisted personnel for charges that are not defined as capital offenses.
- II. The Special Court-Martial;

- A Special Court-Martial shall be used to try commissioned officers or enlisted personnel for charges that are not defined as capital offenses.

III. The General Court-Martial.

- A General Court-Martial shall be used to try commissioned officers or enlisted personnel for charges defined as capital offenses.

SEC. 12 PUNISHMENT

- (a) The maximum penalty shall be confinement for 12 days in a Military Prison, assignment to Modified Duties, a reduction by four or more paygrades (equivalent to a demotion), or dismissal with a dishonorable discharge.

SEC. 13 PROCESS OF APPEALS

- (a) Any individual who contends that their final judgment contravenes the law or the United States Constitution may formally petition the Supreme Court of the United States for review.

SEC. 14 MILITARY ATTORNEYS

- (a) There shall be an individual designated by the Judge Advocate General to serve as the Chief Military Attorney. The Chief Military Attorney shall be a current or former commissioned officer within the United States Armed Forces.
- (b) A corps of individuals shall be appointed by the Chief Military Attorney to serve as Military Attorneys.
- (c) These Military Attorneys shall be a civilian with a valid Law Certification.
- (d) The Military Attorneys shall:
 - I. Conduct the defense of Military Personnel in the Military Courts;
 - II. Offer legal advice to Military Personnel.

SEC. 15 LEGAL CONFIDENTIALITY

- (a) The purpose of this section is to establish the principles and guidelines for maintaining legal confidentiality in military cases. Legal confidentiality is crucial in protecting the rights of individuals involved in military proceedings, ensuring a fair and just process, and maintaining the integrity of the military justice system.
- (b) The attorney-client privilege shall be recognized and respected in military cases. Communications between an attorney and their client, made in confidence and for the purpose of obtaining legal advice, shall be privileged and protected from disclosure.
- (c) Military personnel, including prosecutors, investigators, and any other individuals involved in military cases, shall not disclose any legal advice received from the accused's attorney to unauthorized parties without proper authorization.
- (d) Defense counsel shall not be compelled to disclose defense strategies or tactics to the prosecution or any other unauthorized individuals. Such strategies and tactics are protected by legal confidentiality.
- (e) Access to confidential information shall be restricted to authorized personnel who have a legitimate need to know for the purpose of conducting legal proceedings and ensuring a fair and just process.

SEC. 15 CONGRESSIONAL OVERSIGHT

- (a) The House and Senate Committee on Armed Services may:
 - I. Open an inquiry into a Military Judge Advocate General.
 - II. Investigate a Military Judge Advocate General.

III. Propose Legislation in regards to Military Justice reform and any other relevant Military Legal topic.