

By: Representatives Rogers (61st), Scoggin,
Weathersby

To: Military Affairs

HOUSE BILL NO. 1311

1 AN ACT TO AMEND SECTION 33-13-31, MISSISSIPPI CODE OF 1972,
2 TO INCREASE CERTAIN FINES PROVIDED FOR A COMMANDING OFFICER'S
3 NONJUDICIAL PUNISHMENT UNDER THE MISSISSIPPI CODE OF MILITARY
4 JUSTICE; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 33-13-31, Mississippi Code of 1972, is
7 amended as follows:

8 33-13-31. (1) Under such regulations as the Governor may
9 prescribe, limitations may be placed on the powers granted by this
10 section with respect to the kind and amount of punishment
11 authorized, and the categories of commanding officers and warrant
12 officers exercising command authorized to exercise those powers.
13 Under similar regulations, rules may be prescribed with respect to
14 the suspension of punishments authorized hereunder. If authorized
15 by regulations of the Governor, the Governor or an officer of
16 general rank in command may delegate his powers under this section
17 to a principal assistant. If disciplinary punishment other than
18 admonition or reprimand is to be imposed, the accused shall be
19 afforded the opportunity to consult with counsel having the



20 qualifications prescribed under Section 33-13-15(2), Mississippi
21 Code of 1972, if available. Otherwise, the accused shall be
22 afforded the opportunity to be represented by any available
23 commissioned officer of his choice. The accused may also employ
24 civilian counsel of his own choosing at his own expense. In all
25 proceedings, the accused is allowed forty-eight (48) hours, or
26 longer on written justification, to reply to the notification of
27 intent to impose punishment under this section.

28 (2) Subject to subsection (1) of this section, any
29 commanding officer or the Commandant of the Mississippi Military
30 Academy may, in addition to or in lieu of admonition or reprimand,
31 impose one or more of the following disciplinary punishments for
32 minor offenses:

33 (a) Upon officers of his command:

34 (i) Restriction to certain specified limits with
35 or without suspension from duty, for not more than thirty (30)
36 days;

37 (ii) If imposed by the Governor, or an officer of
38 general rank in command * * *:

39 * * * 1. Arrest in quarters for not more than
40 thirty (30) days;

41 * * * 2. A fine of not more than * * * Two
42 Hundred Twenty-five Dollars (\$225.00), subject to such limitations
43 as may be imposed by federal law;



44 * * *3. Restriction to certain specified
45 limits, with or without suspension from duty, for not more than
46 sixty (60) days;

47 * * *4. Detention of not more than one-half
48 (1/2) of one (1) month's pay per month for three (3) months.

49 (b) Upon other personnel of his command:

50 (i) If imposed upon a person attached to or
51 embarked in a vessel, confinement for not more than three (3)
52 days;

53 (ii) Correctional custody for not more than seven
54 (7) days;

55 (iii) A fine of not more than * * * One Hundred
56 Seventy-five Dollars (\$175.00), subject to such limitations as may
57 be imposed by federal law;

58 (iv) Reduction to the next inferior pay grade, if
59 the grade from which demoted is within the promotion authority of
60 the officer imposing the reduction or any officer subordinate to
61 the one who imposes the reduction;

62 (v) Extra duties including fatigue or other
63 duties, for not more than thirty (30) days, which need not be
64 consecutive, and for not more than two (2) hours per day, holidays
65 included;

66 (vi) Restriction to certain specified limits, with
67 or without suspension from duty for not more than thirty (30)
68 days;



69 (vii) Detention of not more than fourteen (14)
70 days' pay;

71 (viii) If imposed by an officer of the grade of
72 major or above * * *:

73 * * *1. The punishment authorized under
74 subsection (2) (b) (i) of this section;

75 * * *2. Correctional custody for not more
76 than thirty (30) days;

77 * * *3. A fine of not more than * * * Two
78 Hundred Twenty-five Dollars (\$225.00), subject to such limitations
79 as may be imposed by federal law;

80 * * *4. Reduction to the lowest or any
81 intermediate pay grade if the grade from which demoted is within
82 the promotion authority of the officer imposing the reduction, but
83 an enlisted member in a pay grade above E-4 may not be reduced
84 more than two (2) pay grades;

85 * * *5. Extra duties including fatigue or
86 other duties, for not more than forty-five (45) days which need
87 not be consecutive and for not more than two (2) hours per day,
88 holidays included;

89 * * *6. Restriction to certain specified
90 limits with or without suspension from duty, for not more than
91 sixty (60) days;

92 * * *7. Detention of not more than one-half
93 (1/2) of one (1) month's pay per month for three (3) months.



94 Detention of pay shall be for a stated period of not more
95 than one (1) year but if the offender's term of service expires
96 earlier, the detention shall terminate upon that expiration. No
97 two (2) or more of the punishments of arrest in quarters,
98 correctional custody, extra duties and restriction may be combined
99 to run consecutively in the maximum amount imposable for each.
100 Whenever any of those punishments are combined to run
101 consecutively, there must be an apportionment. For the purpose of
102 this subsection, "correctional custody" is the physical restraint
103 of a person during nonduty hours and may include extra duties,
104 fatigue duties or hard labor. If practicable, correctional
105 custody will not be served in immediate association with persons
106 awaiting trial or held in confinement pursuant to trial by
107 court-martial.

108 (3) (a) An officer in charge may impose upon enlisted
109 members assigned to the unit of which he is in charge such of the
110 punishments authorized under subsection (2)(b)(i)-(vii) of this
111 section as the Governor may specifically prescribe by regulation.

112 (b) The Commandant of the Mississippi Military Academy
113 may impose upon officers of which he is in charge such of the
114 punishments authorized under subsection (2)(a)(i) of this section.

115 (4) The officer who imposes the punishment authorized in
116 subsection (2) or his successor in command may, at any time,
117 suspend probationally any part or amount of the unexecuted
118 punishment imposed and may suspend probationally a reduction in



grade or fine imposed under subsection (2), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside, in whole or in part, the punishment, whether executed or unexecuted, and restore all rights, privileges and property affected. He may also mitigate reduction in grade to a fine and/or detention of pay.

When mitigating (a) arrest in quarters or restriction, or (b) extra duties to restriction, the mitigated punishment shall not be for a greater period than the punishment mitigated.

When mitigating reduction in grade to a fine and/or detention of pay, the amount of the fine and/or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may, in the meantime, be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

(a) Arrest in quarters for more than seven (7) days;



(b) Correctional custody for more than seven (7) days;

(c) A fine of * * * Two Hundred Twenty-five Dollars
(\$225.00);

(d) Reduction of one or more pay grades from the fourth
or a higher pay grade;

(e) Extra duties for more than fourteen (14) days' pay;

(f) Restriction of more than fourteen (14) days' pay;

(g) Detention of more than fourteen (14) days' pay; the
authority who is to act on the appeal shall refer the case to a
judge advocate of the state military forces for consideration and
advice, and may so refer the case upon appeal from any punishment
imposed under subsection (2).

(6) The imposition and enforcement of disciplinary
punishment under this section for any act or omission is not a bar
to trial by court-martial for a serious crime or offense growing
out of the same act or omission, and not properly punishable under
this section, but the fact that disciplinary punishment has been
enforced may be shown by the accused upon trial, and when so shown
shall be considered in determining the measure of punishment to be
adjudged in the event of a finding of guilty.

(7) The Governor may, by regulation, prescribe the form of
records to be kept of proceedings under this section and may also
prescribe that certain categories of those proceedings shall be in
writing.



168 **SECTION 2.** This act shall take effect and be in force from
169 and after July 1, 2019.

