

MICHIGAN CODE OF MILITARY JUSTICE OF 1980 (EXCERPT)
Act 523 of 1980

32.1005 Application by dismissed officer for trial by court-martial; convening general court-martial; jurisdiction; waiver of right to plead statute of limitations; affirming dismissal; substituting discharge authorized for administrative issuance; reappointment of officer.

Sec. 5.

(1) If an officer, dismissed by order of the governor by reason of an alleged violation of this code, makes written application for trial by court-martial to the governor, setting forth, under oath, that he or she has been wrongfully dismissed, the governor within 6 months shall convene a general court-martial to try the officer on the charge on which the officer was dismissed. A court-martial so convened shall have jurisdiction to try the dismissed officer on the charge. The officer shall be held to have waived the right to plead any statute of limitations applicable to an offense with which the officer is charged. The court-martial, as a part of its sentence, may affirm the dismissal. However, if the court-martial acquits the accused or if the sentence, as finally approved or affirmed, does not include dismissal, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issuance.

(2) If the governor fails to convene a general court-martial within 6 months after the presentation of an application for trial under this section, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issuance.

(3) If a discharge is substituted for a dismissal under the authority of this section, the governor may reappoint the officer to the commissioned rank and precedence as in the opinion of the governor the former officer would have attained had the officer not been dismissed. The reappointment of the former officer may be made if a position vacancy is available under applicable tables of organization. The time between the dismissal and the reappointment shall be considered as service for all state purposes.

History: 1980, Act 523, Eff. Mar. 31, 1981