

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0327

## HOUSE BILL NO. 1047

Introduced by: The Committee on Judiciary at the request of the Department of the Military

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to military law.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 33-2-8 be amended to read as follows:

4 33-2-8. The militia, while in active service, shall be governed by the military law of the  
5 state, ~~and the rules and the Uniform Code of Military Justice of the United States.~~

6 Section 2. That § 33-3-10 be amended to read as follows:

7 33-3-10. The discipline and training of the National Guard shall conform to the system  
8 prescribed in this chapter ~~and in applicable federal law and regulation for the armed forces of~~  
9 ~~the United States~~ title.

10 Section 3. That § 33-9-4 be repealed.

11 ~~33-9-4. If any company commander or commissioned officer of the National Guard who~~  
12 ~~receives the order provided for in § 33-9-3 fails to give such notice or fails to appear at the time~~  
13 ~~and place ordered, prepared for duty, the commander or officer shall be cashiered and shall be~~  
14 ~~further punished by fine and imprisonment as adjudged by a court martial or by other~~  
15 ~~disciplinary action.~~



1 Section 4. That § 33-9-5 be repealed.

2 ~~33-9-5. If any enlisted member of the National Guard, after being duly notified pursuant to~~  
3 ~~§ 33-9-3, refuses or neglects to appear at the time and place of rendezvous, properly prepared~~  
4 ~~for duty, or fails to obey any order issued in such case, the member is deemed a deserter and is~~  
5 ~~guilty of a Class 2 misdemeanor.~~

6 Section 5. That § 33-9-6 be repealed.

7 ~~33-9-6. Physical incapacity to perform military service, dangerous sickness in the family of~~  
8 ~~any officer or enlisted member referred to in §§ 33-9-4 and 33-9-5, or absence at the time the~~  
9 ~~notice was served excuses the member from fault under §§ 33-9-4 and 33-9-5, if the absence~~  
10 ~~was not intended to avoid such notice or service, and if the officer or member joins the unit for~~  
11 ~~duty on the officer's or member's return, if the unit is still in service.~~

12 Section 6. That § 33-14-14 be amended to read as follows:

13 33-14-14. If the South Dakota State Guard or any part of the South Dakota State Guard is  
14 ordered out for active service, the Uniform State Code of Military Justice of the United States,  
15 found in chapter 33-10, is applicable to members of the South Dakota National Guard in relation  
16 to courts-martial, their jurisdiction, the limits of punishment, and the rules and regulations  
17 prescribed under the Uniform State Code of Military Justice ~~applicable to the South Dakota~~  
18 ~~National Guard~~ and are in full force and effect with respect to the South Dakota State Guard.