

D R A F T

SUMMARY

Modifies who may be appointed as temporary Assistant State Judge Advocates from officers of organized militia to members of organized militia who are members in good standing of Oregon State Bar.

Removes authority of Adjutant General to appoint State Judge Advocate Legal Assistants.

A BILL FOR AN ACT

Relating to judge advocates; amending ORS 398.012.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 398.012 is amended to read:

398.012. (1) The Governor, on the recommendation of the Adjutant General, shall appoint an officer of the organized militia as State Judge Advocate. To be eligible for appointment as State Judge Advocate, an officer must:

(a) Be a member in good standing of the Oregon State Bar;

(b) Have been a member of the Oregon State Bar for at least five years;
and

(c) Meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

(2) The Adjutant General may appoint an officer of the organized militia as an Assistant State Judge Advocate. The Adjutant General may appoint as many Assistant State Judge Advocates as the Adjutant General deems necessary. To be eligible for appointment as an Assistant State Judge Advocate, an officer must:

1 (a) Be a member in good standing of the Oregon State Bar; and

2 (b) Meet the qualifications for a judge advocate under the Uniform Code
3 of Military Justice, 10 U.S.C. 801 et seq.

4 (3)(a) The Adjutant General may appoint **members of the organized**
5 **militia who are members in good standing of the Oregon State Bar as**
6 temporary Assistant State Judge Advocates [*who are officers of the organized*
7 *militia*]. An individual appointed as a temporary Assistant State Judge Ad-
8 vocate has 12 months from the date of appointment to [*become a member in*
9 *good standing of the Oregon State Bar and*] meet the qualifications for a
10 judge advocate under the Uniform Code of Military Justice, 10 U.S.C. 801
11 et seq.

12 [(b) *The legal services performed by a temporary Assistant State Judge*
13 *Advocate are limited to those legal services that may be performed by legal*
14 *assistants consistent with ORS 9.160.*]

15 [(c)] (b) A temporary Assistant State Judge Advocate who has met the
16 requirements under this subsection is eligible for appointment as an Assist-
17 ant State Judge Advocate.

18 [(d)] (c) The Adjutant General may extend, for an additional 12 months,
19 the time during which a temporary Assistant State Judge Advocate must
20 meet the qualifications described in paragraph (a) of this subsection.

21 [(4) *The Adjutant General may appoint State Judge Advocate Legal As-*
22 *stants for a period not to exceed 12 months. An individual appointed as a*
23 *State Judge Advocate Legal Assistant shall be an officer of the Oregon Civil*
24 *Defense Force and shall be legally trained but is not required to be admitted*
25 *to the practice of law by the Supreme Court of this state. The legal services*
26 *performed by a State Judge Advocate Legal Assistant are limited to those legal*
27 *services that may be performed by legal assistants consistent with ORS*
28 *9.160.*]

29 [(5)] (4) The State Judge Advocate, the [*Senior Force Judge Advocate, as*
30 *defined in the Oregon Code of Military Justice,*] **senior Army or Air Force**
31 **judge advocate in the organized militia** or their assistants shall make

1 frequent inspections in the field for supervision of the administration of
2 military justice and general military legal matters.

3 [(6)(a)] **(5)(a)** Convening authorities shall at all times communicate di-
4 rectly with their judge advocate in matters relating to the administration
5 of military justice and general military legal matters.

6 (b) The judge advocate of any command may communicate directly with
7 the judge advocate of a superior or subordinate command, [*or with*] the State
8 Judge Advocate or the [*Senior Force Judge Advocate, as defined in the*
9 *Oregon Code of Military Justice*] **senior Army or Air Force judge advocate**
10 **in the organized militia.**

11 [(7)] **(6)** A person who has acted as member, military judge, trial counsel,
12 assistant trial counsel, defense counsel, assistant defense counsel or investi-
13 gating officer, or who has been a witness for either the prosecution or de-
14 fense in any case, may not later act as judge advocate to any reviewing
15 authority upon the same case.

16 [(8)] **(7)** A judicial officer, as defined by ORS 1.210, is not prohibited, by
17 reason of holding that office, from:

18 (a) Performing all acts necessary or incumbent to the authorized exercise
19 of duties as a judge advocate.

20 (b) Being assigned as a judge advocate by the Adjutant General as ap-
21 pointed by the Governor as Commander in Chief under the Oregon Consti-
22 tution.

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