



Agency Legislative Proposal - 2016 Session

Document Name
CTMD-1

(If submitting an electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency:
CONNECTICUT MILITARY DEPARTMENT

Liaison: Lieutenant Colonel TIM TOMCHO
Phone: (860) 548-3203
E-mail: timothy.j.tomcho.mil@mail.mil

Lead agency division requesting this proposal:
Adjutant General

Agency Analyst/Drafter of Proposal:
LTC Tim Tomcho

Title of Proposal
AN ACT CONCERNING FEDERAL RECORDS ACCESSIBLE TO OR MAINTAINED BY THE CONNECTICUT NATIONAL GUARD

Statutory Reference
Sec. 1-210. (Formerly Sec. 1-19). Access to public records. Exempt records

Proposal Summary
To clarify that the federal records maintained by the Connecticut National Guard are exempt under the state FOIA but may be requested under the federal FOIA.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

The Connecticut National Guard is a unique agency that possesses state and federal roles and responsibilities. Service in the Guard is dual-status service, requiring membership in the state militia and the United States Armed Forces. Records generated and maintained by the Connecticut National Guard are primarily for federal purposes. These records are governed by federal laws, including the federal Freedom of Information Act and federal Privacy Act, and are maintained by the federal government in federal record systems (databases). Select members of the Connecticut National Guard may access federal databases due to membership in the U.S. Armed Forces, federal security clearances and duty positions. Such federal records may be requested under federal FOIA.

Records that are generated and maintained by the Connecticut National Guard that are not generated or maintained by the federal government would continue to be subject to release under the state FOIA through a request via the Connecticut Military Department.

- **Origin of Proposal** **New Proposal** **Resubmission**



The Military Department seeks this statutory exemption to codify its practice and to avoid confusion as to the status of its federal military records. The Connecticut Military Department defended a matter before the FIC (#FIC 2014-879, Eberg v. State of Conn, Military Dept.), wherein the Yale Law School Jerome N. Frank Legal Service Clinic represented the complainant. The complainant alleged that the state FOIA permitted federal personnel records maintained in a federal (Army) database, to which select Army National Guard could access based on their federal security clearance and duties, to be released. The State prevailed, noting the records were federal records, which were exempted under the state law, "Except as provided by any federal law" (C.G.S. Section 1-210(a)). The case indicated that the exemption for federal records would eliminate future confusion - a specific statutory exemption would avoid future confusion relative to federal military records accessible by members of the Connecticut National Guard.

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Freedom of Information Commission
Agency Contact (name, title, phone): Paula Pearlman, Staff Attorney/Legislative Liaison, 860-566-5682
Date Contacted: November 21, 2016

Approve of Proposal ___ YES ___ NO x Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? X YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
None

State
None

Federal
None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



This would clarify existing law with a specific statutory exemption for federal military records accessible to members of the Army and National Guard. Federal records are not subject to State FOIA pursuant to section 1-210(a)'s general exemption, as these records are excepted records that are exempt "as otherwise provided by any federal law or state statute" This bill clarifies the general exemption and specifically directs any person requesting such records to utilize the federal FOIA (5USC552).

AN ACT CONCERNING FEDERAL RECORDS ACCESSIBLE TO OR MAINTAINED BY THE CONNECTICUT NATIONAL GUARD

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1-210 (b) of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2017):

Sec. 1-210. (Formerly Sec. 1-19). Access to public records. Exempt records. (a) Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the Secretary of the State, as the case may be. Any certified record hereunder attested as a true copy by the clerk, chief or deputy of such agency or by such other person designated or empowered by law to so act, shall be competent evidence in any court of this state of the facts contained therein.

(b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

(NEW) (28) Military records maintained by the Connecticut National Guard for federal purposes. Requests for military records that are maintained by or accessible to the Connecticut National Guard for federal purposes shall be made pursuant to the federal Freedom of Information Act (5USC552).



Agency Legislative Proposal - 2017 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

CTMD 2

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Military Department

Liaison: LTC Tim Tomcho

Phone: (860) 548-3203

E-mail: timothy.j.tomcho.mil@mail.mil

Lead agency division requesting this proposal: Adjutant General

Agency Analyst/Drafter of Proposal: LTC Tim Tomcho

Title of Proposal: AAC the Retirement Age of Governor’s Guard Musicians

Statutory Reference: 27-53

Proposal Summary:

This proposal extends the retirement age for musicians in the First and Second Companies of the Governor’s Band from age 64 to age 70.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

The reason for this proposal is based on the need to retain members of the Governor’s Guard bands past the statutory retirement age. Musician performance in the band is ceremonial.

◇ **Origin of Proposal**

New Proposal

Resubmission

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

[Click here to enter text.](#)



PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: MILITARY DEPARTMENT ONLY Agency Contact (name, title, phone): Date Contacted: Click here to enter text.
Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments Click here to enter text.
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> NONE
State NONE
Federal NONE
Additional notes on fiscal impact NONE

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Passage will promote retention of musicians in the Governor's Guards' bands.

Insert fully drafted bill here

AAC the Retirement Age of Governor's Guard Musicians

Be it enacted by the Senate and House of Representatives in General Assembly convened:



Section 27-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

Sec. 27-53. Retirement of members. Retirement promotions. (a) When a member of the armed forces of the state or the Governor's military staff, whose service has been honorable, has served ten years, he or she may, if he or she makes a timely application to the Adjutant General through the chain of command prior to such member's retirement date, be retired from active service and placed upon the retired list. Such retirement shall be in the highest grade in which he or she has served. When such service equals or exceeds twenty years, he or she may, upon his or her application to the Adjutant General, through the chain of command prior to such member's retirement date, be commissioned at or promoted to the next higher grade than the highest grade at which he or she may have held at any time, either in the armed forces of the state or the Governor's military staff or the armed forces of the United States, which higher grade shall not be above the grade of a [brigadier general] O7 or [sergeant major] E9, and shall thereafter be placed upon the retired list with such grade. Members may only receive the retirement promotion provided under this section one time. In determining such term of service of twenty years, there may be added to any term of not less than ten years' service in the armed forces of the state or the Governor's military staff the term of service with the armed forces of the United States, either active, inactive or reserve. Retirement shall be obligatory for all members reaching the age of sixty-four years or as required for members of the National Guard and naval militia by laws and regulations pertaining thereto, except for members serving as musicians in the Governor's Foot Guard bands in accordance with section 27-6a who shall retire upon reaching the age of seventy.

(b) A retired member of the armed forces of the state or the Governor's military staff, whose service was honorable, who served thirty or more years and who did not apply for a retirement promotion prior to retirement, may apply directly to the Adjutant General to be commissioned at or promoted to the next higher grade than the highest grade at which he or she may have held at any time, either in the armed forces of the state or the Governor's military staff or the armed forces of the United States, which higher grade shall not be above the grade of a [brigadier general] O7 or [sergeant major] E9.



Agency Legislative Proposal - 2017 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

CTMD 3

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Military Department (CTMD)

Liaison: Timothy J. Tomcho

Phone: (860) 548-3203

E-mail: timothy.j.tomcho.mil@mail.mil

Lead agency division requesting this proposal: Adjutant General

Agency Analyst/Drafter of Proposal: Timothy J. Tomcho

Title of Proposal: AAC Military Department Volunteers

Statutory Reference: Sections 27-100b and 27-67

Proposal Summary:

To Revise the Military Department’s Family Program Volunteer Program by allowing individual volunteers to provide voluntary services to service members, their families and CTMD.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

The proposal formalizes the process used by the department to receive services of volunteers and volunteer organizations.

◇ **Origin of Proposal**

New Proposal

Resubmission

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

[Click here to enter text.](#)



PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: MILITARY DEPARTMENT ONLY Agency Contact (name, title, phone): Click here to enter text. Date Contacted: Click here to enter text. Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments Click here to enter text.
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None
State None
Federal None
Additional notes on fiscal impact None

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Proposal will provide the department increased ability to utilize volunteers.

Insert fully drafted bill here

AN ACT CONCERNING MILITARY DEPARTMENT VOLUNTEERS

Be it enacted by the Senate and House of Representatives in General Assembly convened:



Section 1. Section 1-100b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

Sec. 27-100b. Volunteer service program. Report. (a) As used in this section, (1) “member” means a member of the armed forces, as defined in section 27-103, including the Connecticut National Guard, [who is on active duty and] who is a resident of this state, (2) department means Military Department as defined in Section 27-19, ((2)3) “services” includes, but is not limited to, repairs, gardening, transportation, babysitting, tutoring, cooking, office work or any other services that a member or member’s family or the department would find helpful, [and] ((3)4) “local organizations” includes not-for-profit organizations that serve members and veterans and their families, and other organizations that seek to volunteer services to members, [and] their families or the department and (5) “volunteers” are persons who seek to provide voluntary services to members, their families or the department.

(b) The department’s family program [of the Connecticut National Guard] shall establish a volunteer service program in which a volunteer service coordinator coordinates with municipalities and local organizations and volunteers throughout the state to provide services by volunteers to members, [and] their families or the department. No [person shall volunteer] voluntary services shall be accepted for any services for which a license, certificate of registration, permit or other credentials issued by a state agency is required unless such person offering to provide such services holds [such] the required license, certificate of registration, permit or other credentials.

(c) The volunteer services coordinator shall identify municipalities, [and] local organizations and volunteers that provide [volunteer] voluntary services to members, [and] their families or the department in communities throughout the state and shall [assist] inform such municipalities, [and] local organizations and volunteers of opportunities to provide voluntary services to members, their families or the department.

(d) On or before [January 31, 2006, and annually thereafter, the family program of the Connecticut National Guard] February fifteenth of each calendar year, the department the department shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to veterans’ and military affairs, in accordance with section 11-4a, on the services [provided by volunteers to members throughout the state, including, but not limited to, the level of services in different geographical areas] received during the previous year under the volunteer service program.

Section 2. Section 27-67 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):



Sec. 27-67. Compensation under Workers' Compensation Act. (a) A member of the armed forces of the state performing military duty in accordance with section 27-17, 27-18 or 27-61 and a volunteer providing services in accordance with section 27-100b shall be construed to be an employee of the state for the specific purposes of liability, immunity and being subject to the jurisdiction of the Workers' Compensation Commission and shall be compensated in accordance with the provisions of chapter 568 for death, disability or injury incurred while performing such military duty or providing voluntary service. A member of the armed forces of the state performing such military duty or a volunteer providing service shall not be considered an employee of the state for other purposes.

(b) Any member of the armed forces of the state who is injured while performing military duty in accordance with section 27-17, 27-18 or 27-61 or a volunteer providing services in accordance with section 27-100b may collect benefits under the provisions of chapter 568 based on the salary of the member's employment or the average production wage in the state, as determined by the Labor Commissioner under the provisions of section 31-309, whichever is greater. The provisions of this subsection shall apply only if the member of the armed forces of the state or the volunteer is unable to perform the member's or volunteer's regular employment duties.

(c) For the purpose of this section, there shall be no prorating of compensation benefits because of other employment by a member of the armed forces of the state or by a military department volunteer.