



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**SB-901 The military: eligibility.** (2023-2024)

SHARE THIS:  

Date Published: 09/30/2024 09:00 PM

**Senate Bill No. 901**

**CHAPTER 774**

An act to amend Sections 260, 261, and 559 of, and to add Sections 240 and 270 to, the Military and Veterans Code, relating to the military.

[ Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 901, Umberg. The military: eligibility.

Existing law establishes within state government a Military Department that includes, among other things, the office of the Adjutant General, the California National Guard, and the State Guard. Existing law generally governs the administration of the military, including its enlisted persons and officers. Existing law provides that an enlisted person may be discharged from the California National Guard under honorable, general, or undesirable conditions without a court-martial and requires a bad conduct or dishonorable discharge to be awarded only by a court-martial. Existing law specifies the causes for discharge of an enlisted person from the California National Guard and provides the conditions for the Governor or the Adjutant General to discharge an enlisted person. Existing law authorizes the discharge of an officer from the California National Guard only by sentence of a general court-martial and approval by the Governor. Existing law prohibits a person from being commissioned or enlisted in the State Guard if the person is not a citizen of the United States or has not declared their intent to become a citizen of the United States or has been expelled from a military or naval organization, as specified.

The bill would specify that a person is not eligible to commission or enlist in the California National Guard or State Guard if that person actively participates in, among other things, advocating for, or engaging in, the use of unlawful force, unlawful violence, or other illegal means to deprive an individual of their rights, as specified. This bill would require an officer or enlisted person to be discharged from the State Guard under undesirable conditions, or receive an other than honorable discharge from the California National Guard, if that person actively participates in that same conduct.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 240 is added to the Military and Veterans Code, to read:

**240.** (a) A person is not eligible to commission as an officer or warrant officer in the California National Guard if they actively participate in any of the following:

(1) Advocating for, or engaging in, the use of unlawful force, unlawful violence, or other illegal means to deprive an individual of their rights under the United States Constitution or the laws of the United States, the California Constitution or the laws of this

state, or a political subdivision thereof.

(2) Advocating for, or engaging in, the use of unlawful force or violence to achieve goals that are political, religious, discriminatory, or ideological in nature.

(3) Advocating for, engaging in, or supporting terrorism within the United States or abroad.

(4) Advocating for, engaging in, or supporting the overthrow of the government of the United States, or any political subdivision thereof, including the government of this state or that of any other state, commonwealth, territory, or the District of Columbia, by force of violence, or seeking to alter the form of these governments by unconstitutional or other unlawful means.

(5) Advocating or encouraging military, civilian, or contractor personnel within the California National Guard or State Guard to violate the laws of the United States, or any political subdivision thereof, including the laws of this state or those of any other state, commonwealth, territory, or the District of Columbia, or to disobey lawful orders or regulations, for the purpose of disrupting military activities, or personally undertaking the same.

(6) Advocating for widespread unlawful discrimination based on race, color, national origin, religion, sex, gender identity, or sexual orientation.

(7) Advocating for, engaging in, or supporting treason, as defined in Section 37 of the Penal Code or Section 2381 of Title 18 of the United States Code.

(8) Advocating for, engaging in, or supporting an act of rebellion or insurrection, as defined in Section 2383 of Title 18 of the United States Code.

(b) An officer who actively participates in any of the conduct set forth in subdivision (a) shall receive an other than honorable discharge, in accordance with United States Department of Defense regulations and any applicable procedures and regulations of the individual service branches.

(c) "Active participation" has the same meaning as in the Department of Defense Instruction 1325.06 or any successor instruction or regulation.

**SEC. 2.** Section 260 of the Military and Veterans Code is amended to read:

**260.** The following are causes for discharge of enlisted personnel:

(a) Expiration of term of service.

(b) Attainment of the age of 64 years.

(c) Acceptance of appointment as a commissioned officer in the state or federal service.

(d) To enlist in the United States Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard.

(e) To accept appointment in the United States Military Academy, Naval Academy, Air Force Academy, or Coast Guard Academy.

(f) To accept appointment as a flying cadet.

(g) To re-enlist.

(h) Discontinuance of the organization in which the person is serving.

(i) Change of residence.

(j) Certificate of disability.

(k) Inaptness or misconduct.

(l) Fraudulent enlistment.

(m) Action of civil or military court.

(n) Draft into the service of the United States.

(o) Business or educational interference.

(p) Any other reason the Governor deems adequate and satisfactory.

(q) For the best interests of the military service.

(r) For the good of the service.

(s) For absence without leave.

(t) Active participation in any of the conduct set forth in subdivision (a) of Section 240.

**SEC. 3.** Section 261 of the Military and Veterans Code is amended to read:

**261.** (a) (1) Except as provided in subdivision (b), the discharge of enlisted personnel under the provisions of Section 260 shall be effected by order of the Governor, under those regulations as may be prescribed, or as may be authorized by the laws and regulations prescribed for the government of the National Guard by the United States and that are not inconsistent with this code.

(2) An enlisted person shall receive an other than honorable discharge pursuant to subdivision (t) of Section 260, in accordance with United States Department of Defense regulations and any applicable procedures and regulations of the individual service branches.

(b) The Adjutant General may discharge a person who is absent without leave for a period of 90 days or more. The discharge under this subdivision shall be a general discharge under honorable conditions.

**SEC. 4.** Section 270 is added to the Military and Veterans Code, to read:

**270.** A person is not eligible to enlist in the California National Guard if they actively participate in any of the conduct set forth in subdivision (a) of Section 240.

**SEC. 5.** Section 559 of the Military and Veterans Code is amended to read:

**559.** (a) A person shall not be commissioned or enlisted in the State Guard if either of the following apply:

(1) The person is not a citizen of the United States or has not declared their intention to become a citizen of the United States.

(2) The person has been expelled or dishonorably discharged from a military or naval organization of this state, of another state, or of the United States.

(b) A person is not eligible to commission or enlist in the State Guard if they actively participate in any of the conduct set forth in subdivision (a) of Section 240.

(c) A person who is commissioned or enlisted in the State Guard shall be discharged under undesirable conditions if they actively participate in any of the conduct set forth in subdivision (a) of Section 240.