

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 747

Representatives Romanchuk, Lanese

Cosponsors: Representatives Lang, Seitz, Henne, Duffey, Lipps

A BILL

To amend sections 5923.01, 5923.03, 5923.12, 1
5923.37, and 5924.01 and to enact sections 2
5922.01, 5922.02, 5922.03, 5922.04, 5922.05, 3
5922.06, 5922.07, and 5922.08 of the Revised 4
Code to create the civilian cyber security 5
reserve forces. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5923.01, 5923.03, 5923.12, 7
5923.37, and 5924.01 be amended and sections 5922.01, 5922.02, 8
5922.03, 5922.04, 5922.05, 5922.06, 5922.07, and 5922.08 of the 9
Revised Code be enacted to read as follows: 10

Sec. 5922.01. The governor shall organize and maintain 11
within this state, on a reserve basis, civilian cyber security 12
reserve forces capable of being expanded and trained to educate 13
and protect state, county, and local governmental agencies, 14
critical infrastructure, including election systems, businesses, 15
and citizens of this state from cyber attacks. In the case of an 16
emergency proclaimed by the governor, or caused by illicit 17
actors or imminent danger, the governor, as commander-in-chief, 18

shall expand the reserve as the exigency of the occasion 19
requires. 20

The reserve shall be a part of the Ohio organized militia 21
under the adjutant general's department. The reserve shall be 22
known as the Ohio cyber reserve. The adjutant general may 23
establish and revise, in the name of the governor, the rates of 24
pay for reserve members when called to state active duty. While 25
performing any drill or training, reserve members shall serve in 26
an unpaid volunteer status. When called to state active duty by 27
the governor, reserve members shall function as civilian members 28
of the Ohio organized militia. 29

Sec. 5922.02. The governor may adopt rules consistent with 30
the provisions of law governing the membership, organization, 31
administration, equipment, and maintenance of the Ohio cyber 32
reserve. A copy of the rules shall be available to the public in 33
the adjutant general's office. 34

Sec. 5922.03. The governor may requisition from the United 35
States department of defense, for the use of the Ohio cyber 36
reserve, equipment that may be in the possession and can be 37
furnished by the department, and make available to the reserve 38
the facilities of state armories and equipment and other state 39
premises and property that may be available. 40

Sec. 5922.04. Sections 5922.02 to 5922.08 of the Revised 41
Code do not authorize the Ohio cyber reserve, or any part 42
thereof, to be called or ordered into the military service of 43
the United States. The reserve may become a civilian component 44
of the Ohio national guard. 45

Sec. 5922.05. No person shall be accepted into the Ohio 46
cyber reserve who is not a United States citizen or a legal 47

permanent resident, or who has been expelled or dishonorably 48
discharged from the armed forces as defined in Section 5903.01 49
of the Revised Code. Reserve members shall be subject to an 50
appropriate background check, in accordance with rules adopted 51
by the governor and adjutant general, before admittance into the 52
reserve. 53

Notwithstanding any other provision of the Revised Code, 54
no person shall be disqualified from acceptance into the Ohio 55
cyber reserve on the basis that the person is an employee of the 56
state or a political subdivision of the state, or an employee or 57
proprietor of a private entity that conducts business with the 58
state or a political subdivision of the state. 59

Sec. 5922.06. Whenever the Ohio cyber reserve, or any part 60
thereof, is ordered out for active service by the governor, the 61
Ohio code of military justice shall be in full force in respect 62
to those forces. 63

Sec. 5922.07. The governor may accept the resignation of 64
any Ohio cyber reserve member at any time. Reserve members serve 65
at the pleasure of the governor and may be removed from the 66
reserve in accordance with rules adopted under section 5922.02 67
of the Revised Code. 68

The governor may require reimbursement for training, 69
equipment, and uniforms if an Ohio cyber reserve member does not 70
serve the full term of the member's membership agreement and the 71
inability to serve out the term of the membership agreement was 72
not due to disability or a similar disabling medical condition. 73

Sec. 5922.08. The governor, as commander-in-chief of the 74
Ohio organized militia, may order individuals or units of the 75
Ohio cyber reserve to state active duty to perform duty or 76

training as the governor determines necessary. 77

When ordered by the governor to perform duty or training 78

under this section or section 5923.21 of the Revised Code, 79

members of the Ohio cyber reserve shall have the same 80

protections afforded by the "Servicemembers Civil Relief Act," 81

Pub. L. No. 108-189, 50 U.S.C. 3901-4043, and by the "Uniformed 82

Services Employment and Reemployment Rights Act," 108 Stat. 83

3149, 38 U.S.C. 4301-4333. 84

Sec. 5923.01. (A) The Ohio organized militia consists of 85

all citizens of the state who are not permanently handicapped, 86

as handicapped is defined in section 4112.01 of the Revised 87

Code, who are more than seventeen years, and not more than 88

sixty-seven years, of age unless exempted as provided in section 89

5923.02 of the Revised Code, and who are members of one of the 90

following: 91

(1) The Ohio national guard; 92

(2) The Ohio naval militia; 93

(3) The Ohio military reserve; 94

(4) The Ohio cyber reserve. 95

(B) The Ohio national guard, including both the Ohio air 96

national guard and the Ohio army national guard, the Ohio naval 97

militia, ~~and~~ the Ohio military reserve, and the Ohio cyber 98

reserve are known collectively as the Ohio organized militia. 99

(C) The Ohio naval militia and the Ohio military reserve 100

are known collectively as the state defense forces. 101

(D) The unorganized militia consists of those citizens of 102

the state as described in division (A) of this section who are 103

not members of the Ohio organized militia. 104

(E) No troops shall be maintained in time of peace other than as authorized and prescribed under the "Act of August 10, 1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716. This limitation does not affect the right of the state to the use of its organized militia within its borders in time of peace as prescribed by the laws of this state. This section does not prevent the organization and maintenance of police.

Sec. 5923.03. (A) The Ohio national guard consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio national guard, all as prescribed by publications of the department of the army or air force and the national guard bureau for the national guard as prescribed by Chapter 5919. of the Revised Code.

(B) The Ohio military reserve consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio military reserve as prescribed by Chapter 5920. of Revised Code.

(C) The Ohio naval militia consists of the members of the Ohio organized militia who are enlisted, commissioned, or warranted in the Ohio naval militia as prescribed by Chapter 5921. of the Revised Code.

(D) The Ohio cyber reserve consists of the members of the Ohio organized militia who are civilian volunteers under Chapter 5922. of the Revised Code.

Sec. 5923.12. When ordered to state active duty by the governor, for which duty federal basic pay and allowances are not authorized, members of the organized militia of Ohio shall receive the same pay and allowances for each day's service as is provided for commissioned officers, warrant officers,

noncommissioned officers, and enlisted personnel of like grade 134
and longevity in the armed forces of the United States, together 135
with the necessary transportation, housing, and subsistence 136
allowances as prescribed by the United States department of 137
defense pay manual, or an amount not less than seventy-five 138
dollars per day as base pay for each day's duty performed, 139
whichever is greater. Ohio cyber reserve members shall receive a 140
rate of pay determined and provided by rule by the adjutant 141
general, in the name of the governor. 142

When ordered by the governor to perform training or duty 143
under this section or section 5919.29 of the Revised Code, 144
members of the Ohio national guard shall have the protections 145
afforded to persons on federal active duty by "The 146
Servicemembers Civil Relief Act," 117 Stat. 2835, 50 U.S.C.A. 147
App. 501. 148

Sec. 5923.37. (A) No member of the organized militia 149
ordered to state active duty shall be liable in negligence for 150
any act performed within the scope of ~~his military~~ the member's 151
duties. Any action alleging that such a militia member's conduct 152
was outside the scope of ~~his~~ the member's employment, was 153
malicious, was in bad faith, or was wanton or reckless shall 154
first be filed against the state in the court of claims under 155
section 2743.02 of the Revised Code. 156

(B) Any member of the organized militia rendering medical, 157
nursing, or dental care, or assisting in rendering such care, 158
after being ordered to state active duty shall be deemed an 159
officer or employee of the state under section 109.36 of the 160
Revised Code. 161

(C) Any member of the organized militia ordered to state 162
active duty under section 5923.22 of the ~~revised~~ Revised Code or 163

ordered to duty under section 5919.29 of the Revised Code who is 164
qualified to perform on federal active duty under Title 10, 165
United States Code, in a particular profession, discipline, or 166
skill as a health care provider shall be exempt from the 167
statutes, regulations, and licensing requirements otherwise in 168
force under the laws of this state, with respect to ~~his~~ the 169
member's profession, specialty, or skill at such times as ~~he~~ the 170
member is serving in any military status, duly authorized under 171
the laws of this state or of the United States, or both, and is 172
performing ~~his~~ the member's profession, specialty, or skill 173
under regulations prescribed by the executive authority of the 174
United States or of this state, and is functioning within the 175
scope of ~~his~~ the member's employment. 176

Sec. 5924.01. As used in Chapter 5924. of the Revised Code 177
unless the context otherwise requires: 178

(A) "Organized militia" means the Ohio national guard, the 179
Ohio naval militia, ~~and~~ the Ohio military reserve, and the Ohio 180
cyber reserve. 181

(B) "Officer" means commissioned or warrant officer. 182

(C) "Commissioned officer" includes a commissioned warrant 183
officer. 184

(D) "Commanding officer" includes only commissioned or 185
warrant officers in command of a unit. 186

(E) "Superior commissioned officer" means a commissioned 187
officer superior in rank or command. 188

(F) "Enlisted member" means a person in an enlisted grade. 189

(G) "Grade" means a step or degree, in a graduated scale 190
of office or military rank, that is established and designated 191

as a grade by law or regulation.	192
(H) "Rank" means the order of precedence among members of the armed forces.	193 194
(I) "State active duty" means full-time duty in the active military service of the state under a proclamation of the governor issued pursuant to authority vested in the governor by law, and while going to and returning from such duty.	195 196 197 198
(J) "Duty status other than state active duty" means any other types of duty and while going to and returning from such duty.	199 200 201
(K) "Military court" means a court-martial, a court of inquiry, or a provost court.	202 203
(L) "Military judge" means an official of a general or special court-martial who is a commissioned officer, who has been duly certified to be qualified for duty as a military judge by the state judge advocate, and who has been properly detailed in accordance with section 5924.26 of the Revised Code.	204 205 206 207 208
(M) "Law specialist" means a commissioned officer of the organized naval militia of the state designated for special duty.	209 210 211
(N) "Legal officer" means any commissioned officer of the organized naval militia of the state designated to perform legal duties for a command.	212 213 214
(O) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the organized militia.	215 216 217
(P) "Accuser" means a person who reports an offense subject to trial by court-martial and who signs and swears to	218 219

charges, any person who directs that charges nominally be signed 220
and sworn to by another, or any other person who has an interest 221
other than an official interest in the prosecution of the 222
accused. 223

(Q) "Military" refers to any or all of the armed forces. 224

(R) "Convening authority" includes, in addition to the 225
person who convened the court, a commissioned officer commanding 226
for the time being, or a successor in command. 227

(S) "May" is used in a permissive sense. The words "no 228
person may" mean that no person is required, 229
authorized, or permitted to do the act prescribed. 230

(T) "Shall" is used in an imperative sense. 231

(U) "Code" means the Ohio code of military justice, as set 232
forth in Chapter 5924. of the Revised Code. 233

(V) "Trial counsel" means the prosecuting attorney in a 234
general or special court-martial. 235

(W) "Detention facility" means any place that is owned or 236
operated by a municipal corporation, by a county, or by one or 237
more municipal corporations, counties, or both and that is used 238
for the confinement of persons charged with or convicted of any 239
crime in this state or another state or under the laws of the 240
United States. 241

(X) "Examiner" has the same meaning as in division (A) (2) 242
(a) of section 2945.37 of the Revised Code. 243

(Y) "Nonsecured status," "unsupervised, off-grounds 244
movement," "trial visit," "conditional release," and "licensed 245
clinical psychologist" have the same meanings as in section 246
2945.37 of the Revised Code. 247

Section 2. That existing sections 5923.01, 5923.03,	248
5923.12, 5923.37, and 5924.01 of the Revised Code are hereby	249
repealed.	250