

1 SB28  
2 214980-3  
3 By Senator Butler  
4 RFD: Veterans and Military Affairs  
5 First Read: 11-JAN-22  
6 PFD: 01/05/2022

1 SB28

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4 ENROLLED, An Act,

5 Relating to the Alabama National Guard; to provide  
6 for the inclusion of the Space National Guard within the  
7 Alabama National Guard, contingent upon its creation by the  
8 federal government.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 31-2-1, 31-2-3, 31-2-55,  
11 31-2-57, and 31-3-1, Code of Alabama 1975, are amended to read  
12 as follows:

13 "§31-2-1.

14 "The following definitions shall be used in  
15 construing, interpreting, enforcing, and applying the  
16 provisions of this chapter or any provision of any other act  
17 affecting the militia, the Military Department, or any parts  
18 thereof:

19 "(1) ARMED FORCES OF THE STATE OF ALABAMA. The  
20 National Guard to include army ~~and~~, air, and space, the  
21 Alabama State Guard, and the Naval Militia.

22 "(2) NATIONAL DEFENSE ACT. Title 32, United States  
23 Code, and amendments thereto, and that body of laws enacted by  
24 Congress relating to the reserve components of the Armed

1 Forces of the United States and amendments thereto, heretofore  
2 or which may hereafter be enacted.

3 "(3) REGULATIONS OF THE DEPARTMENT OF DEFENSE. All  
4 regulations or directives issued by the Secretary of Defense  
5 or by the appropriate secretary of a service in the Department  
6 of Defense, including the Chief of the National Guard Bureau.

7 "(4) UNIFORM CODE OF MILITARY JUSTICE. Chapter 47,  
8 Title 10, United States Code, and all amendments heretofore or  
9 hereafter enacted, and all executive orders and regulations  
10 pursuant thereto.

11 "(5) UNIT DESIGNATIONS. Headquarters, company,  
12 troop, battery, battalion, flight, group, brigade, squadron,  
13 regiment, division, wing, or other unit designations used by  
14 the National Guard shall be in accordance with the common  
15 usage or regulations of the United States Armed Forces.

16 "§31-2-3.

17 "The militia of the state shall be divided into the  
18 organized militia, the retired list, and the unorganized  
19 militia, which together shall constitute the state military  
20 forces. The organized militia shall be composed of: An army  
21 national guard ~~and~~, an air national guard, and a space  
22 national guard, which forces, together with an inactive  
23 national guard, shall comprise the Alabama National Guard; the  
24 Alabama Naval Militia; and the Alabama State Guard, whenever  
25 any ~~such force is~~ of the forces are organized by the Governor

1 pursuant to existing laws. The National Guard, army ~~or,~~ air,  
2 or space, shall consist of ~~such~~ organizations and units ~~as~~  
3 that the Commander in Chief may from time to time authorize to  
4 be formed, all to be organized in accordance with the laws of  
5 the United States affecting the National Guard, army ~~and,~~ air,  
6 and space, and the regulations issued by the appropriate  
7 Secretary of the Department of Defense.

8 "§31-2-55.

9 "Officers and enlisted men and women of the  
10 headquarters and headquarters detachment of the Alabama Army  
11 ~~and,~~ Air, and Space National Guard shall be selected and  
12 appointed from among the active or inactive members of the  
13 National Guard by the Adjutant General in the same manner as  
14 for other units.

15 "§31-2-57.

16 "All members of the federally recognized  
17 headquarters and headquarters detachment, Alabama Army ~~and,~~  
18 Air, and Space National Guard, who are full-time military  
19 employees of the state, and ~~such~~ other members of the  
20 headquarters and headquarters detachment, Alabama Army ~~and,~~  
21 Air, and Space National Guard, as the Governor may deem  
22 necessary, shall, if authorized by federal military laws and  
23 authorities when they or the National Guard and Naval Militia  
24 are ordered into the federal service in case of a national  
25 crisis, be assigned to duty in the state headquarters in

1 connection with the execution of any national selective  
2 service act, the National Defense Act, or any similar federal  
3 laws enacted for the purpose of inducting the manpower of this  
4 state and of the nation into the military, naval, or other  
5 similar emergency service of the United States, in connection  
6 with the organization, training, and maintenance of temporary  
7 military forces by the state as "home guards" or similar  
8 forces and in the operation of the State Military Department,  
9 to the extent permitted by federal authorities and not  
10 inconsistent with their federal duties.

11 "§31-3-1.

12 "(a) The following words and phrases when used in  
13 this chapter shall have the following meanings, respectively,  
14 unless the context shall clearly indicate a different meaning  
15 in the connection used:

16 "(1) AWARDING AUTHORITY. The State Board of  
17 Adjustment, created and existing pursuant to Article 4 of  
18 Chapter 9 of Title 41 of this Code.

19 "(2) CHILD or CHILDREN. ~~Such term includes~~ Includes  
20 posthumous children and all other children entitled by law to  
21 inherit as children of the deceased, also stepchildren who  
22 were members of the family of the deceased at the time of his  
23 or her death, and dependent upon him or her for support, also  
24 a grandchild of the deceased Alabama national guardsman, whose  
25 ~~father~~ parent is dead or is an invalid, and who was supported

1 by and was a member of the family of ~~such~~ the deceased  
2 grandparent at the time of his or her death.

3 "(3) DEPENDENT CHILD. An unmarried child under the  
4 age of 18 years, or one over that age who is physically or  
5 mentally incapacitated from earning.

6 "(4) ALABAMA NATIONAL GUARDSMEN. The officers and  
7 men and women commissioned or enlisted in the Alabama National  
8 Guard, army ~~or,~~ air, or space, as defined in Section 31-2-3.

9 "(b) For the purposes of this chapter, the following  
10 described persons shall be conclusively presumed to be wholly  
11 dependent:

12 "(1) A ~~wife~~ spouse of an Alabama National Guardsman,  
13 unless it be shown that ~~she~~ the spouse was voluntarily living  
14 apart from ~~her husband~~ the national guardsman at the time of  
15 ~~his~~ the national guardsman's death, or unless it be shown that  
16 the ~~husband~~ national guardsman was not in any way contributing  
17 to his or her spouse's support and had not in any way  
18 contributed to his or her spouse's support for more than 12  
19 months next preceding the occurrence of the injury causing ~~his~~  
20 the national guardsman's death.

21 "(2) Minor children under the age of 18 years and  
22 those ~~over 18,~~ if physically and mentally incapacitated from  
23 earning, children 18 or more years of age.

24 "(3) A husband, wife, child, mother, father,  
25 grandmother, grandfather, sister, brother, mother-in-law, and

1 father-in-law who were wholly supported by the deceased  
2 Alabama national guardsman, at the time of ~~his~~ the national  
3 guardsman's death and for a reasonable period of time prior  
4 thereto, shall be considered his or her dependents and payment  
5 of compensation may be made to them as authorized in this  
6 chapter.

7 "(c) Any member of the class named in subdivision  
8 (b) (3) ~~of this section~~ who regularly derived part of his or  
9 her support from the earnings of the deceased Alabama national  
10 guardsman, at the time of ~~his~~ death of the national guardsman  
11 and for a reasonable time immediately prior thereto, shall be  
12 considered ~~his~~ a partial dependent of the national guardsman  
13 and payment of compensation may be made to ~~such~~ the partial  
14 dependent as authorized in this chapter."

15 Section 2. This act shall become operative only if  
16 the federal government creates the Space National Guard in the  
17 National Defense Authorization Act by fiscal year 2025.

18 Section 3. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB28  
Senate 15-FEB-22  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 24-FEB-22

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By: Senator Butler