AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE SINCE 1950 (2025 Edition)

EDITED BY GREGORY E. MAGGS

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Last updated June 25, 2025

PREFACE

Article I, § 8, clause 13 empowers Congress to "make Rules for the Government and Regulation of the land and naval Forces." In 1950, Congress exercised this power by enacting the Uniform Code of Military Justice (UCMJ). The UCMJ establishes a system of judicial and non-judicial punishment for offenses committed by service members. The UCMJ defines offenses, authorizes punishments, establishes courts-martial and appellate courts, defines the jurisdiction of these tribunals, specifies the duties of numerous participants in the system, and addresses many related topics.

Since 1950, Congress has passed more than fifty acts amending the UCMJ. The pace of amendments has increased in recent years, with Congress making substantial changes almost every year. The numerous revisions make practicing military justice difficult. Judges and attorneys must take care to determine which version of the UCMJ applies to a particular case. They also may have to research prior versions of UCMJ articles to understand precedents that cite them.

The main volumes of the U.S. Code (published every six years) and the supplements to the U.S. Code (published in each of the intervening years) contain information that can help practitioners keep track of amendments to the UCMJ. After each article of the UCMJ, the editors of the U.S. Code list amendments and their effective dates. In many instances, however, this information is difficult to use. This publication aims to make the process easier.

This publication provides information about all the amendments to every article of the Uniform Code of Military Justice (UCMJ) since its enactment in 1950. The entries for each amendment identify (1) the law enacting the amendment; (2) the main volume or supplement of the U.S. Code in which to find the codification of the amended article (before any subsequent amendment of the article); (3) the effective date or dates of the amendment; and (4) the text or a summary of the amendment.

For example, to find the text of the statute of limitations in Article 43 that was in effect on January 1, 2002, a user of this publication can examine the table of contents to find the pages containing information about Article 43. The user can then browse through that information to find the last amendment that took place before January 1, 2002. The publication identifies the main volume or supplement of the U.S. Code in which to find the codification of the Article as amended before 2002 and prior to any subsequent amendment. The user can then use the links listed in the pages that follow to find the public law and pertinent version of the U.S. Code on-line.

In preparing this work, I received substantial help from Abe Finley (law clerk to the Clerk of the U.S. Court of Appeals for the Armed Forces) who devoted many days to pulling amendments from public laws and formatting them for this publication. I also received assistance from Ben Forsgren, Cooper Millhouse, Stephen Paul, and Mari Vogel (my law clerks at the U.S. Court of Appeals for the Armed Forces), and from Thomas Albers-Fiedler, Min-Soo Choi, Crystal Clanton, Jackie Corbo, Janese Duley, Sebastian Napoli, and Patrick Walters (law student research assistants). Mr. Clark Price of the Central Legal Staff of the U.S. Court of Appeals for the Armed Forces also provided excellent assistance. I am grateful for all their hard work. Because I plan to produce future editions of this book as new amendments occur, I earnestly welcome suggestions for correction of errors or other improvements.

No copyright is claimed on this U.S. Government work. Please feel free to copy and distribute it to anyone who might find it useful.

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LINKS TO PUBLIC LAWS AMENDING THE UCMJ

Congress has enacted more than 50 laws amending the Uniform Code of Military Justice (UCMJ). The following table identifies these laws with links for finding their texts online. It also lists the UCMJ articles that these laws have amended and identifies the main edition of the U.S. Code or the supplement to the main edition in which the amended articles were first codified, also with links for finding them online.

Please note that the versions of the annual supplements to the main edition of the U.S. Code that the Government prints on paper generally include only the amended portions of the UCMJ, while referring the user to the most recent main edition of the U.S. Code for the unamended portions.[1] In contrast, the Government's free .pdf versions of the annual supplements (for which links are provided below) contain the entire UCMJ, with the amendments incorporated.

Date	**Public Law, UCMJ Articles Amended, and First Codification**
Dec. 23, 2024	Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, 138 Stat 1773 (2024), https://www.congress.gov/118/bills/hr5009/BILLS-118hr5009enr.pdf Amending UCMJ arts. 2, 24a, 65, 103b, 120b, 146a *First codification of the amended articles*: 10 U.S.C. §§ 802, 824a, 865, 903b, 946a (2024) (forthcoming). A preliminary version is available here: https://uscode.house.gov/view.xhtml?path=/prelim@title10/subtitleA/part2/chapter47&edition=prelim
Dec. 22, 2023	National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, 137 Stat. 136 (2023), https://www.congress.gov/118/bills/hr2670/BILLS-118hr2670enr.pdf Amending: UCMJ arts. 2, 3, 16, 24a, 25, 67a, 118, 128B, 130, 137, 146 *First codification of the amended articles*: 10 U.S.C. §§ 802, 803, 816, 824a, 825 867, 918, 928B, 930, 937, 946 (Supp. V 2023), https://www.govinfo.gov/content/pkg/USCODE-2023-title10/pdf/USCODE-2023-title10-subtitleA-partII-chap47.pdf
Dec. 23, 2022	James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, 136 Stat. 2395 (2022), https://www.congress.gov/117/bills/hr7776/BILLS-117hr7776enr.pdf *Amending*: UCMJ arts. 1, 24a, 25, 61, 66, 69 *First codification of the amended articles*: 10 U.S.C. §§ 801, 824a, 825, 861, 866, 869 (Supp. IV 2022), https://www.govinfo.gov/content/pkg/USCODE-2022-title10/pdf/USCODE-2022-title10-subtitleA-partII-chap47.pdf

[1] Scans of the paper versions of the supplements to the main volumes of the U.S. Code are available at heineonline.org, which is accessible only with a subscription. For example, the amendments to UCMJ articles 1 through 6 in the paper version of Supplement IV 2022 is available here: https://heinonline.org/HOL/P?h=hein.uscode/usc2018053&i=784

Date	Public Law, UCMJ Articles Amended, and First Codification
Dec. 27, 2021	National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, 135 Stat. 1541 (2021), https://www.congress.gov/117/plaws/publ81/PLAW-117publ81.pdf *Amending*: UCMJ arts. 1, 6b, 22, 23, 24a, 27, 32, 34, 44, 53, 53a, 56, 65, 66, 133 *First codification of the amended articles*: 10 U.S.C. §§ 801, 806b, 822, 823, 824a, 827, 832, 834, 844, 853, 853a, 856, 865, 866, 933 (Supp. III 2021), https://www.govinfo.gov/content/pkg/USCODE-2021-title10/pdf/USCODE-2021-title10-subtitleA-partII-chap47.pdf
Jan. 1, 2021	William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, 134 Stat. 3388 (2021), https://www.congress.gov/116/plaws/publ283/PLAW-116publ283.pdf *Amending*: UCMJ Arts. 23, 24, 66, 67, 140a, 146a *First codification of the amended articles*: 10 U.S.C. §§ 823, 824, 866, 867, 940a, 946a (Supp. II 2020), https://www.govinfo.gov/content/pkg/USCODE-2020-title10/pdf/USCODE-2020-title10-subtitleA-partII-chap47.pdf
Dec. 20, 2019	National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, 133 Stat. 1198 (2019), https://www.congress.gov/116/plaws/publ92/PLAW-116publ92.pdf *Amending:* UCMJ Arts. 30a, 37, 43, 128b, 940a *First codification of the amended articles*: 10 U.S.C. §§ 830a, 837, 843, 928b, 940a (Supp. I 2019), https://www.govinfo.gov/content/pkg/USCODE-2019-title10/pdf/USCODE-2019-title10-subtitleA-partII-chap47.pdf
Aug. 13, 2018	John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, 132 Stat. 1636 (2018), https://www.congress.gov/115/plaws/publ232/PLAW-115publ232.pdf *Amending:* UCMJ Arts. 128, 128b, 146 *First codification of the amended articles*: 10 U.S.C. §§ 928, 928b, 146 (2018), https://www.govinfo.gov/content/pkg/USCODE-2018-title10/pdf/USCODE-2018-title10-subtitleA-partII-chap47.pdf
Dec. 12, 2017	National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, 131 Stat. 1283 (2017), https://www.congress.gov/115/plaws/publ91/PLAW-115publ91.pdf *Amending:* UCMJ Arts. 1, 6b, 16, 30a, 38, 39, 43, 48, 53, 53a, 56, 58a, 58b, 62, 63, 64, 65, 66, 69, 82, 117a, 119a, 120, 128, 132, 137, 146 *First codification of the amended articles*: 10 U.S.C. §§ 801, 806b, 816, 830a, 838, 839, 843, 848, 853, 853a, 856, 858a, 858b, 862, 863, 864, 865, 866, 869, 882, 917a, 919a, 920, 928, 932, 937, 946 (Supp. V. 2017), https://www.govinfo.gov/content/pkg/USCODE-2017-title10/pdf/USCODE-2017-title10-subtitleA-partII-chap47.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Dec. 23, 2016	National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, 130 Stat. 2000 (2016), https://www.congress.gov/114/plaws/publ328/PLAW-114publ328.pdf. Note: Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. *Amending:* UCMJ Arts. 1, 2, 6, 6a, 6b, 10, 12, 15, 16, 18, 19, 20, 22, 25, 25a, 26, 26a, 27, 29, 30, 30a, 32, 33, 34, 35, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 50a, 51, 52, 53, 53a, 54, 56, 56a, 57, 58a, 58b, 60, 60a, 60b, 60c, 61, 62, 63, 64, 65, 66, 67, 67a. 869, 70, 71, 72, 73, 75, 76a, 79, 82, 83, 84, 87, 87a, 87b, 89, 90, 93a, 95, 95a, 96, 98, 103, 103a, 103b, 104, 104a, 104b, 105, 105a, 106, 106a, 107, 108a, 109a, 110, 111, 112, 113, 114, 115, 117a, 118, 119a, 119b, 120, 120a, 120b, 121a, 121b, 122, 122a, 123, 124, 124a, 124b, 125, 126, 128, 128a, 128b, 129, 130, 131a, 131b, 131c, 131d, 131e, 131f, 131g, 132, 134, 135, 136, 137, 140a, 142, 145, 146, 946a. *First codification of the amended articles*: 10 U.S.C. §§ 801, 802, 806, 806a, 806b, 810, 812, 815, 816, 818, 819, 820, 822, 825, 825a, 826, 826a, 827, 829, 830, 830a, 832, 833, 834, 835, 838, 839, 840, 841, 843, 844, 845, 846, 847, 848, 849, 850, 850a, 851, 852, 853, 853a, 854, 856, 856a, 857, 858a, 858b, 860, 860a, 860b, 860c, 861, 862, 863, 864, 865, 866, 867, 867a, 869, 870, 871, 872, 873, 875, 876a, 879, 882, 883, 884, 887, 887a, 887b, 889, 890, 893a, 895, 895a, 896, 898, 903, 903a, 903b, 904, 904a, 904b, 905, 905a, 906, 906a, 907, 908a, 909a, 910, 911, 912, 913, 914, 915, 917a, 918, 919a, 919b, 920, 920a, 920b, 921a, 921b, 922, 922a, 923, 924, 924a, 924b, 925, 926, 928, 928a, 928b, 929, 930, 931a, 931b, 931c, 931d, 931e, 931f, 931g, 932, 934, 935, 936, 937, 940a, 942, 945, 946, 946a (2018), https://www.govinfo.gov/content/pkg/USCODE-2018-title10/pdf/USCODE-2018-title10-subtitleA-partII-chap47.pdf *Note: The amendments to these sections are first described in italics after the pre-amended text of these sections in Supp. IV 2016 of the U.S. Code, but they were not codified until their inclusion in the 2018 main volume.*
Nov. 25, 2015	National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, 129 Stat. 726 (2015), https://www.congress.gov/114/plaws/publ92/PLAW-114publ92.pdf *Amending:* UCMJ Art. 6b *First codification of the amended articles*: 10 U.S.C. § 6b (Supp. III 2015), https://www.govinfo.gov/content/pkg/USCODE-2015-title10/pdf/USCODE-2015-title10-subtitleA-partII-chap47.pdf
Dec. 19, 2014	Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, 128 Stat. 3292 (2014), https://www.congress.gov/113/statute/STATUTE-128/STATUTE-128-Pg3292.pdf *Amending*: UCMJ arts. 6b, 32, 34, 43, 49, 60, 118, 125, 142 *First codification of the amended articles*: 10 U.S.C. §§ 806b, 832, 834, 843, 846, 849, 860, 918, 925, 942 (Supp. II 2014),

Date	Public Law, UCMJ Articles Amended, and First Codification
	https://www.govinfo.gov/content/pkg/USCODE-2014-title10/pdf/USCODE-2014-title10-subtitleA-partII-chap47.pdf
Dec. 26, 2013	National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, 127 Stat. 672 (2013), https://www.congress.gov/113/statute/STATUTE-127/STATUTE-127-Pg672.pdf *Amending:* UCMJ Art. 2, 6b, 18, 32, 34, 38, 43, 46, 47, 56, 60, 71, 125, 142 *First codification of the amended articles*: 10 U.S.C. §§ 802, 806b, 818, 832, 834, 838, 843, 846, 847, 856, 860, 871, 925, 942 (Supp. I 2013), https://www.govinfo.gov/content/pkg/USCODE-2013-title10/pdf/USCODE-2013-title10-subtitleA-partII-chap47.pdf
Jan. 2, 2013	National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, 126 Stat. 1632 (2013), https://www.congress.gov/112/plaws/publ239/PLAW-112publ239.pdf *Amending:* UCMJ Art. 6, 43, 120, 120b, 146 *First codification of the amended articles*: 10 U.S.C. §§ 806, 843, 920, 920b, 946 (2012), (2012), https://www.govinfo.gov/content/pkg/USCODE-2012-title10/pdf/USCODE-2012-title10-subtitleA-partII-chap47.pdf
Dec. 31, 2011	National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, 125 Stat. 1298 (2011), https://www.congress.gov/112/plaws/publ81/PLAW-112publ81.pdf *Amending:* UCMJ Arts. 43, 47, 54, 118, 120, 120b, 120c *First codification of the amended articles*: 10 U.S.C. §§ 843, 847, 854, 918, 920, 920b, 920c, (Supp. V 2011), https://www.govinfo.gov/content/pkg/USCODE-2011-title10/pdf/USCODE-2011-title10-subtitleA-partII-chap47.pdf
Jan. 7, 2011	Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, 124 Stat. 4137 (2011), https://www.congress.gov/111/plaws/publ383/PLAW-111publ383.pdf *Amending:* UCMJ Arts. 41, 43, 48 *First codification of the amended articles*: 10 U.S.C. §§ 841, 843, 848 (Supp. IV 2010), https://www.govinfo.gov/content/pkg/USCODE-2010-title10/pdf/USCODE-2010-title10-subtitleA-partII-chap47.pdf
Oct. 28, 2009	National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, 123 Stat. 2190 (2009), https://www.congress.gov/111/plaws/publ84/PLAW-111publ84.pdf *Amending:* UCMJ Arts. 2, 39 *First codification of the amended articles*: 10 U.S.C. §§ 802, 839 (Supp. III 2009), https://https://www.govinfo.gov/content/pkg/USCODE-2009-title10/pdf/USCODE-2009-title10-subtitleA-partII-chap47.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Jan. 28, 2008	National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, 122 Stat. 3 (2008), https://www.congress.gov/110/plaws/publ181/PLAW-110publ181.pdf *Amending:* UCMJ Art. 136 *First codification of the amended articles*: 10 U.S.C. § 936 (Supp. II 2008), www.govinfo.gov/content/pkg/USCODE-2008-title10/pdf/USCODE-2008-title10-subtitleA-partII-chap47.pdf
Oct. 17, 2006	Military Commissions Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600 (2006), https://www.congress.gov/109/plaws/publ366/PLAW-109publ366.pdf *Amending:* UCMJ Arts. 2, 21, 28, 36, 48, 50, 81, 104 (now 103b), 106 (now 103) *First codification of the amended articles*: 10 U.S.C. §§ 802, 821, 828, 836, 848, 850, 881, 104 (903b), 906 (now 103) (2006), https://www.govinfo.gov/content/pkg/USCODE-2006-title10/pdf/USCODE-2006-title10-subtitleA-partII-chap47.pdf
Oct. 17, 2006	John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006), https://www.congress.gov/109/plaws/publ364/PLAW-109publ364.pdf *Amending:* UCMJ Arts. 2, 43 *First codification of the amended articles*: 10 U.S.C. §§ 802, 843 (2006), https://www.govinfo.gov/content/pkg/USCODE-2006-title10/pdf/USCODE-2006-title10-subtitleA-partII-chap47.pdf
Jul. 11, 2006	Coast Guard and Maritime Transportation Act of 2006, Pub. L. No. 109-241, 120 Stat. 516 (2006), https://www.congress.gov/109/plaws/publ241/PLAW-109publ241.pdf *Amending:* UCMJ Art. 1 *First codification of the amended articles*: 10 U.S.C. § 801 (2006), https://www.govinfo.gov/content/pkg/USCODE-2006-title10/pdf/USCODE-2006-title10-subtitleA-partII-chap47.pdf
Jan. 6, 2006	National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006), https://www.congress.gov/109/plaws/publ163/PLAW-109publ163.pdf *Amending:* UCMJ Arts. 8, 22, 39, 43, 46, 47, 49, 58, 88, 118, 120, 120a *First codification of the amended articles*: 10 U.S.C. §§ 808, 822, 839, 843, 846, 847, 849, 858, 888, 918, 920, 920a (Supp. V 2005), https://www.govinfo.gov/content/pkg/USCODE-2005-title10/pdf/USCODE-2005-title10-subtitleA-partII-chap47.pdf
Apr. 1, 2004	Unborn Victims of Violence Act of 2004, Pub. L. No. 108-212, 118 Stat. 568 (2004), https://www.congress.gov/108/plaws/publ212/PLAW-108publ212.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
	Amending: UCMJ Art. 119a *First codification of the amended articles*: 10 U.S.C. § 919a (Supp. IV 2004), https://uscode.house.gov/download/annualhistoricalarchives/pdf/2004/2004usc10.pdf *Note: This link contains the entire text of Title 10. A PDF including only the portion containing the UCMJ is not available at the www.govinfo.gov website.*
Nov. 24, 2003	National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1392 (2003), https://www.congress.gov/108/plaws/publ136/PLAW-108publ136.pdf *Amending:* UCMJ Arts. 43, 113 *First codification of the amended articles*: 10 U.S.C. §§ 843, 913 (Supp. III 2003), https://www.govinfo.gov/content/pkg/USCODE-2003-title10/pdf/USCODE-2003-title10-subtitleA-partII-chap47.pdf
Nov. 25, 2002	Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), https://www.congress.gov/107/plaws/publ296/PLAW-107publ296.pdf *Amending:* UCMJ Arts. 1, 6, 15, 88, 146 *First codification of the amended articles*: 10 U.S.C. §§ 801, 806, 815, 816, 829, 888, 946 (Supp. II 2002), https://uscode.house.gov/download/annualhistoricalarchives/pdf/2002/2002usc10.pdf Note: The portion of Supp. II 2002 containing the UCMJ is not available at the www.govinfo.gov website.
Dec. 28, 2001	National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, 115 Stat. 1012 (2001), https://www.congress.gov/107/plaws/publ107/PLAW-107publ107.pdf *Amending:* UCMJ Arts. 16, 19, 25a, 29, 74, 113 *First codification of the amended articles*: 10 U.S.C. §§ 816, 819, 825a, 829, 874, 913 (Supp. I 2001), https://www.govinfo.gov/content/pkg/USCODE-2001-title10/pdf/USCODE-2001-title10-subtitleA-partII-chap47.pdf
Oct. 30, 2000	Floyd D. Spencer National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654 (2000), https://www.congress.gov/106/plaws/publ398/PLAW-106publ398.pdf *Amending:* UCMJ Arts. 54, 74 *First codification of the amended articles*: 10 U.S.C. §§ 854, 874 (2000), https://www.govinfo.gov/content/pkg/USCODE-2000-title10/pdf/USCODE-2000-title10-subtitleA-partII-chap47.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Oct. 5, 1999	National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), 113 Stat. 512 (1999), https://www.congress.gov/106/plaws/publ65/PLAW-106publ65.pdf *Amending:* UCMJ Arts. 6a, 19, 38, 42, 146 *First codification of the amended articles*: 10 U.S.C. §§ 806a, 819, 838, 842, 946 (Supp. V 1999), https://www.govinfo.gov/content/pkg/USCODE-1999-title10/pdf/USCODE-1999-title10-subtitleA-partII-chap47.pdf
Sept. 23, 1996	National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422 (1997), https://www.congress.gov/104/plaws/publ201/PLAW-104publ201.pdf *Amending:* UCMJ Arts. 58b, 143 *First codification of the amended articles*: 10 U.S.C. §§ 858b, 943 (Supp. II 1996), https://www.govinfo.gov/content/pkg/USCODE-1996-title10/pdf/USCODE-1996-title10-subtitleA-partII-chap47.pdf
Feb. 10, 1996	National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996), https://www.congress.gov/104/plaws/publ106/PLAW-104publ106.pdf *Amending:* UCMJ Arts. 1, 2, 6a, 32, 38, 47, 57, 58b, 60, 62, 66, 76b, 95 (now 87a), 120, 137, 142, 146 *First codification of the amended articles*: 10 U.S.C. §§ 801, 802, 806a, 832, 838, 847, 857, 858b, 860, 862, 866, 876b, 895, 920, 937, 942, 946 (Supp. II 1996), https://www.govinfo.gov/content/pkg/USCODE-1996-title10/pdf/USCODE-1996-title10-subtitleA-partII-chap47.pdf
Oct. 5, 1994	National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, 108 Stat. 2663 (1994), https://www.congress.gov/103/statute/STATUTE-108/STATUTE-108-Pg2663.pdf *Amending:* UCMJ Arts. 62, 66, 67, 67a, 68, 69, 70, 71, 73, 141, 142, 143, 144, 145, 146 *First codification of the amended articles*: 10 U.S.C. §§ 862, 866, 867, 867a, 868, 869, 870, 871, 873, 941, 942, 943, 944, 945, 946 (1994), https://www.govinfo.gov/content/pkg/USCODE-1994-title10/pdf/USCODE-1994-title10-subtitleA-partII-chap47.pdf
Nov. 30, 1993	National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, 107 Stat. 1547 (1993), https://www.congress.gov/103/statute/STATUTE-107/STATUTE-107-Pg1547.pdf *Amending:* UCMJ Art. 111 *First codification of the amended article*: 10 U.S.C. § 911 (Supp. V 1993), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-05001/uscode1988-050010047/uscode1988-050010047.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Oct. 23, 1992	National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315 (1992), https://www.congress.gov/102/statute/STATUTE-106/STATUTE-106-Pg2315.pdf *Amending:* UCMJ Arts. 3, 57, 63, 113, 118, 120, 143, 145 *First codification of the amended articles*: 10 U.S.C. §§ 803, 857, 863, 913, 918, 920, 943, 945 (1988 & Supp. IV 1992), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03601/uscode1988-036010047/uscode1988-036010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-04201/uscode1988-042010047/uscode1988-042010047.pdf
Dec. 5, 1991	National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, 105 Stat. 1290 (1991), https://www.congress.gov/102/statute/STATUTE-105/STATUTE-105-Pg1290.pdf *Amending:* UCMJ Arts. 142, 145 *First codification of the amended articles*: 10 U.S.C. §§ 942, 945 (Supp. III 1991), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03601/uscode1988-036010047/uscode1988-036010047.pdf
Nov. 5, 1990	National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, 104 Stat. 1485 (1990), https://www.congress.gov/101/statute/STATUTE-104/STATUTE-104-Pg1485.pdf *Amending:* UCMJ Arts. 36, 39, 41, 136, 142 *First codification of the amended articles*: 10 U.S.C. §§ 836, 839, 841, 936, 942 (1988 & Supp. II 1990), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03601/uscode1988-036010047/uscode1988-036010047.pdf and https:/tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03101/uscode1988-031010047/uscode1988-031010047.pdf
Nov. 29, 1989	National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, 103 Stat. 1352 (1989), https://www.congress.gov/101/statute/STATUTE-103/STATUTE-103-Pg1352.pdf *Amending:* UCMJ Arts. 6a, 67, 67a, 69, 141, 142, 143, 144, 145, 146 *First codification of the amended articles*: 10 U.S.C. §§ 806a, 867, 867a, 869, 941, 942, 943, 944, 945, 946 (1988 & Supp. I 1989), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03601/uscode1988-036010047/uscode1988-036010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-02901/uscode1988-029010047/uscode1988-029010047.pdf

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Sept. 29, 1988	National Defense Authorization Act for Fiscal Years 1989, Pub. L. No. 100-456, 102 Stat. 1918 (1988), https://www.congress.gov/100/statute/STATUTE-102/STATUTE-102-Pg1918.pdf *Amending:* UCMJ Arts. 1, 2, 67, 136 *First codification of the amended articles*: 10 U.S.C. §§ 801, 802, 867, 936 (1988), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1988-03601/uscode1988-036010047/uscode1988-036010047.pdf
Dec. 4, 1987	National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, 101 Stat. 1019 (1987), https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg1019.pdf *Amending:* UCMJ Art. 1 *First codification of the amended article*: 10 U.S.C. § 801 (Supp. IV 1987), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf
Apr. 21, 1987	Defense Technical Corrections Act of 1987, Pub. L. No. 100-26, 101 Stat. 273 (1987), https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg273.pdf *Amending:* UCMJ Art. 67 *First codification of the amended article*: 10 U.S.C. § 867 (1982 & Supp. V 1987), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-04601/uscode1982-046010047/uscode1982-046010047.pdf
Nov. 14, 1986	National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, 100 Stat. 3816 (1986), https://www.congress.gov/99/statute/STATUTE-100/STATUTE-100-Pg3816.pdf *Amending:* UCMJ Arts. 2, 3, 6, 25, 43, 50a, 60, 136, 137 *First codification of the amended articles*: 10 U.S.C. §§ 802, 803, 806, 825, 843, 850a, 860, 936, 937 (1982 & Supp. IV 1986), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-03801/uscode1982-038010047/uscode1982-038010047.pdf
Oct. 27, 1986	Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207 (1986), https://www.congress.gov/99/statute/STATUTE-100/STATUTE-100-Pg3207.pdf *Amending:* UCMJ Art. 111 *First codification of the amended article*: 10 U.S.C. § 911 (Supp. IV 1986), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-03801/uscode1982-038010047/uscode1982-038010047.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Oct. 1, 1986	Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, 100 Stat. 992 (1986), https://www.congress.gov/99/statute/STATUTE-100/STATUTE-100-Pg992.pdf Amending: UCMJ Art. 22 First codification of the amended article: 10 U.S.C. § 822 (1982 & Supp. IV 1986), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-03801/uscode1982-038010047/uscode1982-038010047.pdf
Nov. 8, 1985	Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583 (1985), https://www.congress.gov/99/statute/STATUTE-99/STATUTE-99-Pg583.pdf *Amending:* UCMJ Art. 106a (now 103a) *First codification of the amended article*: 10 U.S.C. § 906a (Supp. III 1985), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-03301/uscode1982-033010047/uscode1982-033010047.pdf
Dec. 6, 1983	Military Justice Act of 1983, Pub. L. No. 98-209, 97 Stat. 1393 (1983), https://www.congress.gov/98/statute/STATUTE-97/STATUTE-97-Pg1393.pdf *Amending:* UCMJ Arts. 1, 2, 6, 15, 16, 25, 26, 27, 29, 34, 38, 42, 49, 54, 57, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 76a, 112a, 136 *First codification of the amended articles*: 10 U.S.C. §§ 801, 802, 806, 815, 816, 825, 826, 827, 829, 834, 838, 842, 849, 854, 857, 860, 861, 862, 863, 864, 865, 866, 867, 869, 870, 871, 876a, 912a, 936 (1982 & Supp. I 1983), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-02601/uscode1982-026010047/uscode1982-026010047.pdf
Oct. 12, 1982	Act of Oct. 12, 1982, Public L. No. 97-295, 96 Stat. 1287 (1982), https://www.congress.gov/97/statute/STATUTE-96/STATUTE-96-Pg1287.pdf *Amending:* UCMJ Arts. 67, 131 *First codification of the amended articles*: 10 U.S.C. §§ 867, 931 (1982), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1982-00301/uscode1982-003010047/uscode1982-003010047.pdf
Nov. 20, 1981	Military Justice Amendments of 1981, Pub. L. No. 97-81, 95 Stat. 1085 (1981), https://www.congress.gov/97/statute/STATUTE-95/STATUTE-95-Pg1085.pdf *Amending:* UCMJ Arts. 13, 32, 38, 67, 69, 76a *First codification of the amended articles*: 10 U.S.C. §§ 813, 832, 838, 867, 869, 876a (1976 & Supp. V 1981), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-00201/uscode1976-002010047/uscode1976-

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Dec. 12, 1980	Defense Officer Personnel Management Act, Pub. L. No. 96-513, 94 Stat. 2835 (1980), https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2835.pdf *Amending:* UCMJ Arts. 2, 65, 67, 88 *First codification of the amended articles*: 10 U.S.C. §§ 802, 865, 867, 888 (1976 & Supp. IV 1980), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-00201/uscode1976-002010047/uscode1976-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-02501/uscode1976-025010047/uscode1976-025010047.pdf
Nov. 9, 1979	Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, 93 Stat. 803 (1979), https://www.congress.gov/96/statute/STATUTE-93/STATUTE-93-Pg803.pdf *Amending:* UCMJ Arts. 2, 36 *First codification of the amended articles*: 10 U.S.C. §§ 802, 836 (1976 & Supp. III 1979), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-00201/uscode1976-002010047/uscode1976-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-02101/uscode1976-021010047/uscode1976-021010047.pdf
Oct. 18, 1976	Act of Oct. 18, 1976, Pub. L. No. 94-550, 90 Stat. 2534 (1976), https://www.congress.gov/94/statute/STATUTE-90/STATUTE-90-Pg2534.pdf *Amending:* UCMJ Art. 131 *First codification of the amended article*: 10 U.S.C. § 931 (1976), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1976-00201/uscode1976-002010047/uscode1976-002010047.pdf
Oct. 24, 1968	Military Justice Act of 1968, Pub. L. No. 90-632, 82 Stat. 1335 (1968), https://www.congress.gov/90/statute/STATUTE-82/STATUTE-82-Pg1335.pdf *Amending:* UCMJ Arts. 1, 6, 16, 18, 19, 20, 25, 26, 27, 29, 35, 37, 38, 39, 40, 41, 42, 45, 49, 51, 52, 54, 57, 65, 66, 67, 68, 69, 70, 71, 73, 136 *First codification of the amended articles*: 10 U.S.C. §§ 801, 806, 816, 818, 819, 820, 825, 826, 827, 829, 835, 837, 838, 839, 840, 841, 842, 845, 849, 851, 852, 854, 857, 865, 866, 867, 868, 869, 870, 871, 873, 936 (1964 & Supp. IV 1968), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-02001/uscode1964-020010047/uscode1964-020010047.pdf

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Oct. 22, 1968	Act of Oct. 22, 1968, Pub. L. No. 90-623, 82 Stat. 1312 (1968), https://www.congress.gov/90/statute/STATUTE-82/STATUTE-82-Pg1312.pdf *Amending:* UCMJ Art. 15 *First codification of the amended article*: 10 U.S.C. § 815 (1964 & Supp. IV 1968), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-02001/uscode1964-020010047/uscode1964-020010047.pdf
June 15, 1968	Act of June 15, 1968, Pub. L. No. 90-340, 82 Stat. 178 (1968), https://www.congress.gov/90/statute/STATUTE-82/STATUTE-82-Pg178.pdf *Amending:* UCMJ Art. 67 *First codification of the amended article*: 10 U.S.C. § 867 (1964 & Supp. IV 1968), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-02001/uscode1964-020010047/uscode1964-020010047.pdf
Dec. 8, 1967	Act of Dec. 8, 1967, Pub. L. No. 90-179, 81 Stat. 545 (1967), https://www.congress.gov/90/statute/STATUTE-81/STATUTE-81-Pg545.pdf *Amending:* UCMJ Arts. 1, 6, 15, 27, 65, 136 *First codification of the amended articles*: 10 U.S.C. §§ 801, 806, 815, 827, 865, 936 (1964 & Supp. III 1967), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-01801/uscode1964-018010047/uscode1964-018010047.pdf
Nov. 2, 1966	Act of November 2, 1966, Pub. L. No. 89-718, 80 Stat. 1115 (1966), https://www.congress.gov/89/statute/STATUTE-80/STATUTE-80-Pg1115.pdf *Amending:* UCMJ Art. 2 *First codification of the amended article*: 10 U.S.C. § 802 (1964 & Supp. II 1966), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-01601/uscode1964-016010047/uscode1964-016010047.pdf
Aug. 14, 1964	Act of August 14, 1964, Pub. L. No. 88-426, 78 Stat. 400 (1964), https://www.congress.gov/88/statute/STATUTE-78/STATUTE-78-Pg400.pdf *Amending:* UCMJ Art. 67 *First codification of the amended article*: 10 U.S.C. § 867 (1964), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1964-00201/uscode1964-002010047/uscode1964-002010047.pdf

Date	Public Law, UCMJ Articles Amended, and First Codification
Sept. 7, 1962	Act of September 7, 1962, Pub. L. No. 87-651, 76 Stat. 506 (1962), https://www.congress.gov/87/statute/STATUTE-76/STATUTE-76-Pg506.pdf *Amending:* UCMJ Art. 2 *First codification of the amended articles*: 10 U.S.C. §§ 802, 815 (1958 & Supp. IV 1962), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-00201/uscode1958-002010047/uscode1958-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01901/uscode1958-019010047/uscode1958-019010047.pdf
Sept. 7, 1962	Act of September 7, 1962, Pub. L. No. 87-648, 76 Stat. 447 (1962), https://www.congress.gov/87/statute/STATUTE-76/STATUTE-76-Pg447-2.pdf *Amending:* UCMJ Art. 15 *First codification of the amended articles*: 10 U.S.C. §§ 802, 815 (1958 & Supp. IV 1962), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-00201/uscode1958-002010047/uscode1958-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01901/uscode1958-019010047/uscode1958-019010047.pdf
Oct. 4, 1961	Act of Oct. 4, 1961, Pub. L. No. 87-385, 75 Stat. 814 (1961), https://www.congress.gov/87/statute/STATUTE-75/STATUTE-75-Pg814.pdf *Amending:* UCMJ Art. 123a *First codification of the amended article*: 10 U.S.C. § 923a (Supp. III 1961), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01701/uscode1958-017010047/uscode1958-017010047.pdf
July 12, 1960	Act of July 12, 1960, Pub. L. No. 86-633, 74 Stat. 468 (1960), https://www.congress.gov/86/statute/STATUTE-74/STATUTE-74-Pg468.pdf *Amending:* UCMJ Art. 58a *First codification of the amended articles*: 10 U.S.C. § 858a (1958 & Supp. II 1960), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-00201/uscode1958-002010047/uscode1958-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01501/uscode1958-015010047/uscode1958-015010047.pdf
July 12, 1960	Hawaii Omnibus Act, Pub. L. No. 86-624, 74 Stat. 411 (1960), https://www.congress.gov/86/statute/STATUTE-74/STATUTE-74-Pg411.pdf *Amending:* UCMJ Art. 2 *First codification of the amended articles*: 10 U.S.C. § 802 (1958 & Supp. II 1960), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-00201/uscode1958-002010047/uscode1958-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01501/uscode1958-015010047/uscode1958-015010047.pdf

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June 25, 1959	Alaska Omnibus Act, Pub. L. No. 86-70, 73 Stat. 141 (1959), https://www.congress.gov/86/statute/STATUTE-73/STATUTE-73-Pg141.pdf *Amending:* UCMJ Art. 2 *First codification of the amended article*: 10 U.S.C. § 802 (1958 & Supp. I 1959), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-00201/uscode1958-002010047/uscode1958-002010047.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1958-01401/uscode1958-014010001/uscode1958-014010001.pdf
Aug. 10, 1956	Act of August 10, 1956, Pub. L. No. 84-1028, 70 Stat. 1126 (1956) & 70A Stat. 1 (1956), https://www.congress.gov/84/statute/STATUTE-70/STATUTE-70-Pg1126-2.pdf & https://www.govinfo.gov/content/pkg/STATUTE-70/pdf/STATUTE-70A-PgI.pdf Note: This Act moved the entire UCMJ from its original codification at 50 U.S.C. §§ 551 *et seq.* to its current codification at 10 U.S.C. §§ 801 *et. seq.* The Act did not indicate amendments to the articles, but notes in the U.S. Code (Supp. IV 1956) summarize changes to the following articles: UCMJ arts. 1-39, 41-77, 80-81, 83, 85-86, 88-94, 96, 103, 107, 110, 118-121, 124, 126-127, 131, 133-140. *First codification of the amended and moved articles*: 10 U.S.C. 10 U.S.C. §§ 801-940 (Supp. IV 1956), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1952-01101/uscode1952-011010047/uscode1952-011010047.pdf
Mar. 2, 1955	Act of March 2, 1955, Pub. L. No. 84-9, 69 Stat. 9 (1955), https://www.congress.gov/84/statute/STATUTE-69/STATUTE-69-Pg9-2.pdf *Amending:* UCMJ Art. 67 *First codification of the amended article*: 50 U.S.C. § 654 (1952 & Supp. III 1955), (1952), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1952-00505/uscode1952-005050022/uscode1952-005050022.pdf & https://tile.loc.gov/storage-services/service/ll/uscode/uscode1952-01005/uscode1952-010050022/uscode1952-010050022.pdf
May 5, 1950	Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107 (1950), https://archive.org/details/usstat/064_statutes_at_large/page/n133/mode/1up This Act created the Uniform Code of Military Justice, which was originally codified at 50 U.S.C. §§ 551-736 (Supp. IV 1950), https://tile.loc.gov/storage-services/service/ll/uscode/uscode1946-01105/uscode1946-011050022/uscode1946-011050022.pdf

EXPLANATORY NOTES

1. Entries for the Articles of the Uniform Code of Military Justice (UCMJ)

This document contains an entry for every current or former article of the UCMJ. Each entry begins with a heading that presents the number and title of the article. If amendments have changed the number or title of an article, the entry uses the most recent number and title. If amendments have deleted or moved the article, the former number and title appear in brackets and the deletion or movement is noted.

After providing the number and title of the article, the entry first provides information about the promulgation of the original version of the article. Congress enacted the original version of most articles in 1950. The entry then separately describes each amendment by date, with the date being the date that the amendment was enacted rather than the effective date of the amendment. The description describes the source of the amendment, which is the law passed by Congress. It also identifies the edition of the U.S. Code that includes the text of the amended article prior to any subsequent changes. The description next provides the effective date of the amendment. Finally, the description provides the text or a summary of the amendment. A summary is used when the amendment replaced the article without specifying exactly what changes were made.

2. Laws Amending the UCMJ

Congress amends the UCMJ by enacting laws. The Bluebook refers to a law passed by Congress (as opposed to *the codification of a law* passed by Congress) as a "session law." Under Bluebook Rule 12.4, the proper citation of a session law has six components: (1) the title of the law; (2) the "Public Law" number (which indicates which Congress passed the law and the order in which the law was passed); (3) the section number of the law; (4) the number of the first page of the law in the "Statutes at Large" (which is the official compilation of enacted laws); (5) the number of the page or pages containing the section of the law being cited; and (6) the date the law was enacted. For example, a sentence might say: "Congress amended Article 32(b), UCMJ, in the Military Justice Amendments of 1981, Pub. L. No. 97-81, § 4, 95 Stat. 1085, 1088 (1981)."

Some laws amending the UCMJ have official names, while others do not. If Congress has not specified the name for a law, Bluebook Rule 12.4(a) directs that the law should be identified as "Act of [date]." For example, a sentence might say: "Congress amended Article 67, UCMJ, to raise the salaries of the judges of the U.S. Court of Military Appeals from $17,500 to $25,000 in the Act of March 2, 1955, Pub. L. No. 84-9, § 1(j), 69 Stat. 9, 10 (1955)."

3. The U.S. Code

The Uniform Code of Military Justice (UCMJ) has been codified in the U.S. Code since its enactment in 1950. The U.S. Code is a multi-volume codification of numerous federal laws. (Helpful information about the U.S. Code is available from the Office of the Law Revision Counsel of the U.S. House of Representatives, http://uscode.house.gov/.)

The Government Publishing Office ("GPO") publishes a new, complete edition of the U.S. Code (known as the "main edition") every six years. Since 1950, these "main editions" of the U.S. Code have been printed in 1952, 1958, 1964, 1970, 1976, 1982, 1988, 1994, 2000, 2006, 2012, and 2018. Even though it is now 2025, the 2024 edition has not yet been published. In addition, in

each of the five years intervening between its publications of the main volumes, the GPO also publishes an annual supplement. These annual supplements are designated as Supplement I through Supplement V.

The relevant prior version of an article of the UCMJ may appear in a main volume, in a supplement, or partly in a main volume and partly in a supplement, depending on when the prior version of the article was enacted and amended. Here are three examples of citations showing each of these possibilities:

(1) Article 1, UCMJ, 10 U.S.C. § 801 (2012)

(2) Article 6b, UCMJ, 10 U.S.C. § 806b (Supp. I 2013)

(3) Article 36, UCMJ, 10 U.S.C. § 836 (1988 & Supp. II 1990)

Bluebook Rule 12.3.2 addresses the date to include when citing the U.S. Code. The first sentence of this rule says that "Citations [of] the federal code . . . do not require a date." But dates may be included "if desired." What date should be included? There is some dispute about this matter because the wording of Bluebook Rule 12.3.2 is ambiguous. Most courts and journals interpret the rule as saying that the date should be the *one and only year* that is printed on the spine of each volume or supplement of the U.S. Code being cited. (This publication follows that convention) But other authorities (including the U.S. Court of Appeals for the Armed Forces) interpret the rule saying that the date should be the *range of years* specified on the title pages of the supplements of the U.S. Code.

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Art. 1, 10 U.S.C. § 801—Definitions

Congress created Art. 1 in the Act of May 5, 1950, ch. 169, § 1, 64 Stat. 107, 108 (1950). Art. 1 originally was codified at 50 U.S.C. § 551 (1952). In 1956, as shown below, Congress directed that Art. 1 be re-codified at 10 U.S.C. § 801. Information about amendments to Art. 1 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 36 (1956).

2. First codification of the amended Article: 10 U.S.C. § 801 (1952 & Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "In this chapter" are substituted for the introductory clause.
>
> In the introductory clause and throughout the revised chapter the word "chapter" is substituted for the word "code".
>
> Clauses (1), (2), and (5) of 50: 551 are omitted as respectively covered by the definitions in clauses (4), (6), and (14) of section 101 of this title. The words "commissioned officer" are substituted for the word "officer" for clarity throughout this chapter, since the latter term was defined in the limited sense of commissioned officer in clause (5) of 50: 551, and is now covered by section 101 (14) of this title.
>
> In clauses (1), (4)-(7), and (9)-(12) of the revised section, the word "means" is substituted for the words "shall be construed to refer to" and "shall be construed to refer * * * to".
>
> In clause (1), the words "service in" are substituted for the words "part of" to conform to section 1 of title 14. The words "Department of the Treasury" are substituted for the words "Treasury Department".
>
> Clauses (3) and (4) are inserted for clarity.
>
> In clause (6), the words "the United States Air Force Academy" are inserted to reflect its establishment by the Air Force Academy Act (63 Stat. 47).
>
> In clause (8), the word "refers" is substituted for the words "shall be construed to refer".
>
> In clause (12), the words "Marine Corps" are inserted to make explicit that the clause applies to the Marine Corps. The word "commissioned" is inserted for clarity.

Amendment of Oct. 15, 1966

1. Law amending the Article: Pub. L. No. 89-670, § 10(g), Oct. 15, 1966, 80 Stat. 948.

2. First codification of the amended Article: 10 U.S.C. § 801 (1964 & Supp. II 1966).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> Sec. 10.
>
> * * *
>
> (g) Subsection (1) of section 801, title 10, United States Code, as amended, is amended by striking out "the General Counsel of the Department of the Treasury" and inserting in lieu thereof "the General Counsel of the Department of Transportation".

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, §§ 1(1), (2), 81 Stat. 545, 545 (1967).

2. First codification of the amended Article: 10 U.S.C. § 801 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That chapter 47 of title 10, United States Code, is amended as follows:
>
> (1) Section 801(11) is amended to read as follows:
>
> "(11) 'Law specialist' means a commissioned officer of the Coast Guard designated for special duty (law)."
>
> (2) The following new clause is added at the end of section 801:
>
> "(13) 'Judge advocate' means an officer of the Judge Advocate General's Corps of the Army or the Navy or an officer of the Air Force or the Marine Corps who is designated as a judge advocate."

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(1), 82 Stat. 1335, 1335 (1968).

2. First codification of the amended Article: 10 U.S.C. § 801 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

(1) Section 801 (10) (article 1 (10)) is amended to read as follows:

"(10) 'Military judge' means an official of a general or special court-martial detailed in accordance with section 826 of this title (article 26).".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 2(a), 6(a), 97 Stat. 1393, 1400 (1983).

2. First codification of the amended Article: 10 U.S.C. § 801 (1982 & Supp. I 1983).

3. Effective date of amendment: *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

INCLUSION OF LAW SPECIALISTS OF THE COAST GUARD WITHIN DEFINITION OF JUDGE ADVOCATE

Sec. 2. (a) Clause 13 of section 801 (article 1(13)) is amended to read as follows:

"(13) ' Judge advocate' means—,

"(A) an officer of the Judge Advocate General's Corps of the Army or the Navy;

"(B) an officer of the Air Force or the Marine Corps who is designated as a judge advocate; or

"(C) an officer of the Coast Guard who is designated as a law specialist.".

* * *

Sec. 6. (a) Section 801 (article 1) is amended by adding at the end thereof the following new clause:

"(14) 'Record', when used in connection with the proceedings of a court-martial, means—

"(A) an official written transcript, written summary, or other writing relating to the proceedings; or

"(B) an official audiotape, videotape, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.".

Amendment of Dec. 4, 1987

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. No. 100-180, § 1231(17), 101 Stat. 1019. 1161 (1987).

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. V 1987).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 1231. AMENDMENTS TO TITLE 10, UNITED STATES CODE
>
> Title 10, United States Code, is amended as follows:
>
> * * *
>
> (17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended —
>
> (A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and
>
> (B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

Amendment of Sept. 29, 1988

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1989, Pub. L. No. 100-456, § 1233(f)(1), 102 Stat. 1918, 2057 (1988).

2. First codification of the amended Article: 10 U.S.C. § 801 (1988).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 1233. TECHNICAL AND CLERICAL AMENDMENTS
>
> * * *
>
> (f) CAPITALIZATION CORRECTIONS. —(1) Section 801(1) of title 10, United States Code, is amended by striking out "judge" and inserting in lieu thereof "Judge".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1141(b), 110 Stat. 186, 467 (1996).

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1141. APPEALS BY THE UNITED STATES.

* * *

(b) DEFINITIONS.—Section 801 (article 1) is amended by inserting after paragraph (14) the following new paragraphs:

"(15) The term 'classified information' means (A) any information or material that has been determined by an official of the United States pursuant to law, an Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(16) The term 'national security' means the national defense and foreign relations of the United States.".

Amendment of Nov. 25, 2002

1. Law amending the Article: Homeland Security Act of 2002, Pub. L. No. 107-296, § 1704(b)(2), 116 Stat. 2135, 2314 (2002)

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. II 2002).

3. Effective date of amendment: March 1, 2003. *See* Pub. L. No. 107-296, § 1704(g), 116 Stat. at 2314 ("The amendments made by this section . . . shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security.").

4. Text of the amendment:

SEC. 1704. COAST GUARD.

* * *

(b) TITLE 10, UNITED STATES CODE.—

* * *

(2) Section 801(1) of such title is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

Amendment of July 11, 2006

1. Law amending the Article: Coast Guard and Maritime Transportation Act of 2006, Pub. L. No. 109-241, § 218(a), 120 Stat. 516, 526 (2006).

2. First codification of the amended Article: 10 U.S.C. § 801 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 218. REDESIGNATION OF COAST GUARD LAW SPECIALISTS AS JUDGE ADVOCATES.

(a) DEFINITIONS IN TITLE 10.—Section 801 of title 10, United States Code, is amended—

(1) by striking paragraph (11); and

(2) in paragraph (13) by striking subparagraph (C) and inserting the following:

"(C) a commissioned officer of the Coast Guard designated for special duty (law).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5101, 130 Stat. 2000, 2894 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 801 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5101. DEFINITIONS.

(a) MILITARY JUDGE.—Paragraph (10) of section 801 of title 10, United States Code (article 1 of the Uniform Code of Military Justice), is amended to read as follows:

"(10) The term 'military judge' means a judge advocate designated under section 826(c) of this title (article 26(c)) who is detailed under section 826(a) or section 830a of this title (article 26(a) or 30a).".

(b) JUDGE ADVOCATE.—Paragraph (13) of such section (article) is amended—

(1) in subparagraph (A), by striking "the Army or the Navy" and inserting "the Army, the Navy, or the Air Force"; and

(2) in subparagraph (B), by striking "the Air Force or".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(a)(21), (c)(1)(A), 131 Stat. 1283, 1595, 1597 (2017).

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.
>
> (a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (21) Section 801 (article 1 of the Uniform Code of Military Justice) is amended in the matter preceding paragraph (1) by striking "chapter:" and inserting "chapter (the Uniform Code of Military Justice):".
>
> * * *
>
> (c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—
>
> (1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:
>
> (A) Section 801 (article 1) is amended, in the matter preceding paragraph (1), by inserting "(the Uniform Code of Military Justice)" after "chapter".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 533(a), 135 Stat. 1541, 1692 (2021).

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

> SEC. 533. DEFINITION OF MILITARY MAGISTRATE, COVERED OFFENSE, AND SPECIAL TRIAL COUNSEL.
>
> Section 801 of title 10, United States Code (article 1 of the Uniform Code of Military Justice), is amended—
>
> (1) by inserting after paragraph (10) the following new paragraph:

"(11) The term 'military magistrate' means a commissioned officer certified for duty as a military magistrate in accordance with section 826a of this title (article 26a)."; and

(2) by adding at the end the following new paragraphs:

"(17) The term 'covered offense' means—

"(A) an offense under section 917a (article 117a), section 918 (article 118), section 919 (article 119), section 920 (article 120), section 920b (article 120b), section 920c (article 120c), section 925 (article 125), section 928b (article 128b), section 930 (article 130), section 932 (article 132), or the standalone offense of child pornography punishable under section 934 (article 134) of this title;

"(B) a conspiracy to commit an offense specified in subparagraph (A) as punishable under section 881 of this title (article 81);

"(C) a solicitation to commit an offense specified in subparagraph (A) as punishable under section 882 of this title (article 82); or

"(D) an attempt to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 880 of this title (article 80).

"(18) The term 'special trial counsel' means a judge advocate detailed as a special trial counsel in accordance with section 824a of this title (article 24a) and includes a judge advocate appointed as a lead special trial counsel pursuant to section 1044f(a)(2) of this title.".

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 541(a) & (b), 136 Stat 2395, 2579 (2022).

2. First codification of the amended Article: 10 U.S.C. § 801 (Supp. IV 2022).

3. Effective date of the amendment: "The amendments made by [§ 541(a)(1)] shall take effect immediately after the coming into effect of the amendments made by section 533 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1695) as provided in section 539C of that Act (10 U.S.C. 801 note) and shall apply with respect to offenses that occur after that date." *See* Pub. L. No. 117-263, § 541(a)(2), 136 Stat. at 2580. "The amendments made by [§ 541(a)(1)] shall take effect on January 1, 2025, and shall apply with respect to offenses that occur after that date." *Id.* § 541(b)(2), 136 Stat. at 2580

4. Text of the amendment:

SEC. 541. MATTERS IN CONNECTION WITH SPECIAL TRIAL COUNSEL.

(a) DEFINITION OF COVERED OFFENSE.—

(1) IN GENERAL.—Section 801(17)(A) of title 10, United States Code (article 1(17)(A) of the Uniform Code of Military Justice), as added by section 533 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1695), is amended by striking "section 920 (article 120)" and inserting "section 919a (article 119a), section 920 (article 120), section 920a (article 120a)".

* * *

(b) INCLUSION OF SEXUAL HARASSMENT AS COVERED OFFENSE.—

(1) IN GENERAL.—Section 801(17)(A) of title 10, United States Code (article 1(17)(A) of the Uniform Code of Military Justice), as added by section 533 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1695) and amended by subsection (a) of this section, is further amended—

(A) by striking "or"; and

(B) by striking "of this title" and inserting ", or the standalone offense of sexual harassment punishable under section 934 (article 134) of this title in each instance in which a formal complaint is made and such formal complaint is substantiated in accordance with regulations prescribed by the Secretary concerned".

Art. 2, 10 U.S.C. § 802—Persons subject to this chapter

Congress created Art. 2 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 109 (1950). Art. 2 originally was codified at 50 U.S.C. § 552 (1952). In 1956, as shown below, Congress directed that Art. 2 be re-codified at 10 U.S.C. § 802. Information about amendments to Art. 2 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 37 (1956).

2. First codification of the amended Article: 10 U.S.C. § 802 (1952 & Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In clause (1), the words "Members of" are substituted for the words "All persons belonging to". The words "all" and "the same" are omitted as surplusage. The word "when" is inserted after the word "dates". In clauses (1) and (8), the words "of the United States" are omitted as surplusage. In clause (3), the words "Members of a reserve component" are substituted for the words "Reserve personnel". The word "orders" in the last clause is omitted as surplusage. In clause (4), the word "receive" is omitted as surplusage. In clauses (4) and (5), the word "members" is substituted for the word "personnel". In clause (8), the word "members" is substituted for the word "personnel". In clauses (11) and (12), the word "outside" is substituted for the word "without" wherever it occurs. The words "the continental limits of" are omitted, since section 101 (1) of this title defines the United States to include the States and the District of Columbia. The words "the provision of", "all", and

"territories" are omitted as surplusage. In clause (12), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

Amendment of June 25, 1959

1. Law amending the Article: Alaska Omnibus Act, Pub. L. No. 86-70, § 6(b), 73 Stat. 141, 142 (1959).

2. First codification of the amended Article: 10 U.S.C. § 802 (1958 & Supp. I 1959).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

ARMED FORCES

SEC. 6.

* * *

(b) Title 10, United States Code, sections 802(11) and 802(12), are each amended by striking out the words "that part of Alaska east of longitude 172 degrees west,".

Amendment of July 12, 1960

1. Law amending the Article: Hawaii Omnibus Act, Pub. L. No. 86-624, § 4(b), 74 Stat. 411, 411 (1960).

2. First codification of the amended Article: 10 U.S.C. § 802 (1958 & Supp. II 1960).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

ARMED FORCES

SEC. 4.

* * *

(b) Title 10, United States Code, sections 802(11) and 802(12), are each amended by striking out the words "the main group of the Hawaiian Islands,".

Amendment of Sept. 7, 1962

1. Law amending the Article: Act of September 7, 1962, Pub. L. No. 87-651, § 104, 76 Stat. 506, 508 (1962).

2. First codification of the amended Article: 10 U.S.C. § 802 (1958 & Supp. IV 1962).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 104. Clauses (11) and (12) of section 802 of title 10, United States Code, are amended by inserting "Guam," after "Puerto Rico,".

Amendment of Nov. 2, 1966

1. Law amending the Article: Act of November 2, 1966, Pub. L. No. 89-718, § 8(a), 80 Stat. 1115, 1117 (1966)

2. First codification of the amended Article: 10 U.S.C. § 802 (1964 & Supp. II 1966).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 8. (a) Sections 802(8) * * * of title 10, United States Code, are each amended by striking out "Coast and Geodetic Survey" and inserting in place thereof "Environmental Science Services Administration".

Amendment of Nov. 9, 1979

1. Law amending the Article: Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, § 801(a), 93 Stat. 803, 810 (1979).

2. First codification of the amended Article: 10 U.S.C. § 802 (1976 & Supp. III 1979).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 801. (a) Section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice), is amended—,

(1) by inserting "(a)" before "The" at the beginning of such section; and

(2) by adding at the end thereof the following new subsections:

"(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) of this section and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.".

Amendment of Dec. 12, 1980

1. Law amending the Article: Defense Officer Personnel Management Act, Pub. L. No. 96-513, § 511(24), 94 Stat. 2835, 2922(1980).

2. First codification of the amended Article: 10 U.S.C. § 802 (1976 and Supp. IV 1980).

3. Effective date of amendment: December 12, 1980. *See* Pub. L. No. 96-513, § 701(b)(3), 94 Stat. at 2835 (The amendments made by part B of title V shall take effect on the date of the enactment of this Act.).

4. Text of the amendment:

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

Sec. 511. Subtitle A is amended as follows:

* * *

(24) Section 802(a)(8) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 13(a), 97 Stat. 1393, 1408 (1983).

2. First codification of the amended Article: 10 U.S.C. § 802 (1982 & Supp. I 1983).

3. Effective date of amendment: Dec. 6, 1983. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments . . . made by sections 9, 11 and 13 shall be effective on the date of the enactment of this Act.").

4. Text of the amendment:

TECHNICAL AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE

Sec. 13. (a)(1) Clauses (11) and (12) of subsection (a) of section 802 (article 802) are amended—

(A) by striking out "the following:"; and

(B) by inserting "the Commonwealth of" before " Puerto Rico".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 804(a), 100 Stat. 3816, 3906 (1986).

2. First codification of the amended Article: 10 U.S.C. § 802 (1982 and Supp. IV 1986).

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 804(e), 100 Stat. at 3907 ("The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title."); *Id.* § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS

(a) JURISDICTION OVER RESERVE MEMBERS UNDER CERTAIN CIRCUMSTANCES. —(1) Paragraph (3) of section 802(a) (article 2(a)) is amended to read as follows:

"(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.".

(2) Section 802 (article 2) is further amended by adding at the end the following new subsection:

"(d)(1) A member of a reserve component who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of —

"(A) investigation under section 832 of this title (article 32;

"(B) trial by court-martial; or

"(C) nonjudicial punishment under section 815 of this title (article 15).

"(2) A member of a reserve component may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was —

"(A) on active duty; or

"(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

"(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

"(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces.

"(5) A member ordered to active duty under paragraph (1), unless the order to active duty was aproved by the Secretary concerned, may not —

"(A) be sentenced to confinement; or

"(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).".

Amendment of Sept. 29, 1988

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1989, Pub. L. No. 100-456, § 1234(a)(1), 102 Stat. 1918, 2059 (1988).

2. First codification of the amended Article: 10 U.S.C. § 802 (1988).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1234. REFERENCES TO THE CANAL ZONE.

(a) TITLE 10. —Title 10, United States Code, is amended as follows:

(1) Sections * * * 802(a)(12), [and other listed sections]* * * are each amended by striking out "the Canal Zone," each place it appears.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1133(b), 110 Stat. 186, 466 (1996).

2. First codification of the amended Article: 10 U.S.C. § 802 (Supp. II 1996).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1133. COMMITMENT OF ACCUSED TO TREATMENT FACILITY BY REASON OF LACK OF MENTAL CAPACITY OR MENTAL RESPONSIBILITY.

* * *

(b) CONFORMING AMENDMENT.—Section 802 (article 2) is amended by adding at the end the following new subsection:

"(e) The provisions of this section are subject to section 876b(d)(2) of this title (article 76b(d)(2)).".

Amendments of Oct. 17, 2006

1. Laws amending the Article: Two laws amended Art. 2 on the same day: (1) the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 552, 120 Stat. 2083, 2217 (2006); and (2) the Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(1), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 802 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendments: Pub. L. No. 109-364, § 552, 120 Stat. at 2217, provides:

SEC. 552. CLARIFICATION OF APPLICATION OF UNIFORM CODE OF MILITARY JUSTICE DURING A TIME OF WAR.

Paragraph (10) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by striking "war" and inserting "declared war or a contingency operation".

Pub. L. No. 109-366, § 4(a)(1), Oct. 17, 2006, 120 Stat. at 2631, provides:

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.".

Amendment of Oct. 28, 2009

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, § 1803(a)(1), 123 Stat. 2190, 2612 (2009).

2. First codification of the amended Article: 10 U.S.C. § 802 (Supp. III 2009).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1803. CONFORMING AMENDMENTS.

(a) UNIFORM CODE OF MILITARY JUSTICE.--

(1) PERSONS SUBJECT TO UCMJ.--Paragraph (13) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended to read as follows:

"(13) Individuals belonging to one of the eight categories enumerated in Article 4 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316), who violate the law of war.".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(c)(3)(A), 127 Stat. 672, 957 (2013).

2. First codification of the amended Article: 10 U.S.C. § 802 (Supp. I 2013).

3. Effective date of the amendment: Dec. 26, 2014. *See* Pub. L. No. 113-66, § 1702(d)(1), 127 Stat. at 958 ("The amendments made by subsections (a) and (c)(3) shall take effect one year after the date of the enactment of this Act [Dec. 26, 2013] and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date."); *see also* Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(g), 128 Stat. 3292, 3365 (2014) ("[S]ection 1702(d)(1) of the National Defense Authorization Act for Fiscal Year 2014 . . . is amended by striking 'one year after' and all that follows through the end of the sentence and inserting 'on the later of December 26, 2014, or the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 and shall apply with respect to preliminary hearings conducted on or after that effective date.'").

4. Text of the amendment:

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

* * *

(c) CONFORMING AMENDMENTS.—

* * *

(3) REFERENCES TO ARTICLE 32 INVESTIGATION.—(A) Section 802(d)(1)(A) of such title (article 2(d)(1)(A) of the Uniform Code of Military Justice) is amended by striking "investigation under section 832" and inserting "a preliminary hearing under section 832".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5102, 130 Stat. 2000, 2894 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 802 (2018).

3. Effective date of the amendment: "The amendments to Article[] 2 . . . of the UCMJ enacted by section[] 5102 . . . apply only to cases in which all specifications allege offenses committed on or after January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 6(a), 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5102. CLARIFICATION OF PERSONS SUBJECT TO UCMJ WHILE ON INACTIVE-DUTY TRAINING.

Paragraph (3) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended to read as follows:

"(3)(A) While on inactive-duty training and during any of the periods specified in subparagraph (B)—

"(i) members of a reserve component; and

"(ii) members of the Army National Guard of the United States or the Air National Guard of the United States, but only when in Federal service.

"(B) The periods referred to in subparagraph (A) are the following:

"(i) Travel to and from the inactive-duty training site of the member, pursuant to orders or regulations.

"(ii) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations.

"(iii) Intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 1722(f)(1), 137 Stat. 136, 671 (2023)

2. First codification of the amended Article: 10 U.S.C. § 802 (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

(f) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of Military Justice), is amended as follows:

(1) PERSONS SUBJECT TO UCMJ.—Section 802 (article 2) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting "and members of the Space Force on active duty under section 20105 of this title," after "regular component of the armed forces,";

(ii) in paragraph (3)(A)(i), by inserting "or the Space Force" after "reserve component";

(iii) in paragraph (5), by inserting ", or retired members of the Space Force who qualified for a non-regular retirement and are receiving retired pay," after "a reserve component"; and

(iv) by adding at the end the following new paragraph:

"(14) Retired members of the Space Force who qualified for a regular retirement under section 20603 of this title and are receiving retired pay."; and

(B) in subsection (d)—

(i) in paragraph (1), by inserting "or the Space Force" after "reserve component";

(ii) in paragraph (2), by inserting "or the Space Force" after "a reserve component"; and

(iii) in paragraph (4), by inserting "or the Space Force" after "in a regular component of the armed forces".

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 561, 138 Stat 1773, 1903 (2024).

2. First codification of the amended Article: 10 U.S.C. § 802 (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 561. CLARIFYING AMENDMENT TO ARTICLE 2 OF THE UNIFORM CODE OF MILITARY JUSTICE.
>
> Section 802(a)(14) of title 10, United States Code (article 2(a)(14) of the Uniform Code of Military Justice), is amended by inserting "20601 or" before "20603".

Art. 3, 10 U.S.C. § 803—Jurisdiction to try certain personnel

Congress created Art. 3 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 109 (1950). Art. 3 originally was codified at 50 U.S.C. § 553 (1952). In 1956, as shown below, Congress directed that Art. 3 be re-codified at 10 U.S.C. § 803. Information about amendments to Art. 3 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 38 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 803 (1952 & Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "the provisions of" are omitted as surplusage. The words "no * * * may" are substituted for the words "any * * * shall not". The word "for" is substituted for the word "of" before the words "five years". The words "of a State, a Territory, or" are substituted for the words "any State or Territory thereof or of". The word "court-martial" is substituted for the word "courts-martial". In subsection (b), the words "Each person" are substituted for the words "All persons". The words "who is later" are substituted for the word "subsequently". The words "his discharge is" are substituted for the words "said discharge shall * * * be". The words "the provisions of" are omitted as surplusage. The word "is" is substituted for the words "shall * * * be". The words "he Is" are substituted for the words "they shall be". The word "before" is substituted for the words "prior to". In subsection (c), the words "No * * * may" are substituted for the words "Any * * * shall not". The word "later" is substituted for the word "subsequent".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 804(b), 100 Stat. 3816, 3907 (1986).

2. First codification of the amended Article: 10 U.S.C. § 803 (1982 and Supp. IV 1986).

3. Effective date of amendment: November 14, 1986. *See* Pub. L. No. 99-661, § 804(e), 100 Stat. at 3906 ("The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title.").

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 804(e), 100 Stat. at 3907 ("The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title."); *Id.* § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

> SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS
>
> * * *
>
> (b) CONTINUED AMENABILITY TO JURISDICTION. —Section 803 (article 3) is amended by adding at the end the following new subsection:
>
> "(d) A member of a reserve component who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.".

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1063, 106 Stat. 2315, 2505 (1992).

2. First codification of the amended Article: 10 U.S.C. § 803 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. Text of the amendment:

> SEC. 1063. JURISDICTION REGARDING OFFENSES COMMITTED DURING PERIODS OF PRIOR SERVICE.
>
> Section 803(a) (article 3(a)) of title 10, United States Code, is amended to read as follows:
>
> "(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 1722(f)(2), 137 Stat. 136, 671 (2023)

2. First codification of the amended Article: 10 U.S.C. § 803 (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> (f) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of Military Justice), is amended as follows:
>
> * * *
>
> (2) JURISDICTION TO TRY CERTAIN PERSONNEL.—Subsection (d) of section 803 (article 3) is amended by inserting, "or the Space Force" after "reserve component".

Art. 4, 10 U.S.C. § 804—Dismissed officer's right to trial by court-martial

Congress created Art. 4 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 110 (1950). Art. 4 originally was codified at 50 U.S.C. § 554 (1952). In 1956, as shown below, Congress directed that Art. 4 be re-codified at 10 U.S.C. § 804. Information about amendments to Art. 4 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 38 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 804 (1952 & Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "If" is substituted for the word "When". The word "commissioned" is inserted before the word "officer". The word "considered" is substituted for the word "held". In subsections (a) and (b), the words "Secretary concerned" are substituted for the words "Secretary of the Department". In subsection (c), the word "If" is substituted for the word "Where". The words "the authority of" are omitted as surplusage. The words "grade and with such rank" are substituted for the words "rank and precedence", since a person is appointed to a grade, not to a position of precedence, and

the word "rank" is the accepted military word denoting the general idea of precedence. The words "the existence of a" are substituted for the word "position" for clarity. The word "receive" is omitted as surplusage. In subsection (d), the word "If" is substituted for the word "When". The words "he has no" are substituted for the words "there shall not be a".

Art. 5, 10 U.S.C. § 805—Territorial applicability of this chapter

Congress created Art. 5 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 110 (1950). Art. 5 originally was codified at 50 U.S.C. § 555 (1952). In 1956, as shown below, Congress directed that Art.5 be re-codified at 10 U.S.C. § 805. Information about amendments to Art. 5 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 39 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 805 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "applies" is substituted for the words "shall be applicable".

Art. 6, 10 U.S.C. § 806—Judge advocates and legal officers

Congress created Art. 6 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 111 (1950). Art. 6 originally was codified at 50 U.S.C. § 556 (1952). In 1956, as shown below, Congress directed that Art. 6 be re-codified at 10 U.S.C. § 806. Information about amendments to Art. 6 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 39 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 806 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b), the word "entitled" is substituted for the word "authorized". In subsection (c), the words "may later" are substituted for the words "shall subsequently".

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, §§ 1(3), 81 Stat. 545, 545 (1967).

2. First codification of the amended Article: 10 U.S.C. § 806 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That chapter 47 of title 10, United States Code, is amended as follows:
>
> * * *
>
> (3) Section 806(a) is amended by deleting the first sentence and inserting the following sentences in place thereof: "The assignment for duty of judge advocates of the Army, Navy, and Air Force and law specialists of the Coast Guard shall be made upon the recommendation of the Judge Advocate General of the armed force of which they are members. The assignment for duty of judge advocates of the Marine Corps shall be made by direction of the Commandant of the Marine Corps."

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(2), 82 Stat. 1335, 1335 (1968).

2. First codification of the amended Article: 10 U.S.C. § 806 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (2) Section 806(c) is amended by striking out "law officer" and inserting in lieu thereof "military judge".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 2(b), 97 Stat. 1393, 1393 (2000).

2. First codification of the amended Article: 10 U.S.C. § 806 (1982 & Supp. I 1983).

3. Effective date of amendment: Aug. 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

> Sec. 2.
>
> * * *
>
> (b) The first sentence of section 806(a) (article 6(a)) is amended by striking out "and Air Force and law specialists of the " and inserting in lieu thereof " Air Force, and".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 807(a), 100 Stat. 3816, 3909 (1986).

2. First codification of the amended Article: 10 U.S.C. § 806 (1982 and Supp. IV 1986).

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 804(e), 100 Stat. at 3907 ("The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title."); *Id.* § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

> SEC. 807. DETAIL OF JUDGE ADVOCATES
>
> (a) REPRESENTATION OF UNITED STATES INTERESTS. —Section 806 (article 6) is amended by adding at the end the following new subsection:
>
> "(d)(1) A judge advocate who is assigned or detailed to perform the functions of a civil office in the Government of the United States under section 973(b)(2)(B) "10 USC 973" of this title may perform such duties as may be requested by the agency concerned, including representation of the United States in civil and criminal cases.
>
> "(2) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations providing that reimbursement may be a condition of assistance by judge advocates assigned or detailed under section 973(b)(2)(B) of this title.".

Amendment of Nov. 25, 2002

1. Law amending the Article: Homeland Security Act of 2002, Pub. L. No. 107-296, § 1704(b)(1), 116 Stat. 2135, 2314 (2002)

2. First codification of the amended Article: 10 U.S.C. § 806 (Supp. II 2002).

3. Effective date of amendment: March 1, 2003. *See* Pub. L. No. 107-296, § 1704(g), 116 Stat. at 2314 ("The amendments made by this section . . . shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security].").

4. Text of the amendment:

> SEC. 1704. COAST GUARD.
>
> * * *
>
> (b) TITLE 10, UNITED STATES CODE.—(1) Title 10, United States Code, is amended in sections * * * 806(d)(2), [and other listed sections] * * * by striking "of Transportation" each place it appears and inserting "of Homeland Security".

Amendment of Jan. 2, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 531(d)(1), 126 Stat. 1632, 1726 (2013).

2. First codification of the amended Article: 10 U.S.C. § 806 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 531. CLARIFICATION AND ENHANCEMENT OF THE ROLE OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS.
>
> * * *
>
> (d) SUPERVISION OF CERTAIN LEGAL SERVICES.—
>
> (1) ADMINISTRATION OF MILITARY JUSTICE.—Section 806(a) of such title (article 6(a) of the Uniform Code of Military Justice) is amended in the third sentence by striking "The Judge Advocate General" and all that follows through "shall" and inserting "The Judge Advocates General, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, or senior members of their staffs, shall".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5103, 130 Stat. 2000, 2895 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 806 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5103. STAFF JUDGE ADVOCATE DISQUALIFICATION DUE TO PRIOR INVOLVEMENT IN CASE.
>
> Subsection (c) of section 806 of title 10, United States Code (article 6 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(c)(1) No person who, with respect to a case, serves in a capacity specified in paragraph (2) may later serve as a staff judge advocate or legal officer to any reviewing or convening authority upon the same case.
>
> "(2) The capacities referred to in paragraph (1) are, with respect to the case involved, any of the following:
>
> "(A) Preliminary hearing officer, court member, military judge, military magistrate, or appellate judge.
>
> "(B) Counsel who have acted in the same case or appeared in any proceeding before a military judge, military magistrate, preliminary hearing officer, or appellate court.".

Art. 6a, 10 U.S.C. § 806a—Investigation and disposition of matters pertaining to the fitness of military judges

Congress enacted Art. 6a on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1303, 103 Stat. 1352, 1576 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 806a (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 6a since 1989 appears below.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1502(a)(1), 110 Stat. 186, 502 (1996).

2. First codification of the amended Article: 10 U.S.C. § 806a (Supp II 1996).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.
>
> (a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:
>
> (1) Sections * * * 806a(b), [and other listed sections] * * * are amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

Amendment of Oct. 5, 1999

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), § 1067(1), 113 Stat. 512, 774 (1999).

2. First codification of the amended Article: 10 U.S.C. § 806a (Supp. V 1999).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1067. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON NATIONAL SECURITY OF THE HOUSE OF REPRESENTATIVES TO COMMITTEE ON ARMED SERVICES.
>
> The following provisions of law are amended by striking "Committee on National Security" each place it appears and inserting "Committee on Armed Services':
>
> * * *
>
> 10 USCA § 806a
>
> * * *
>
> (1) Title 10, United States Code.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5104, 130 Stat. 2000, 2895 (2016).

2. First codification of the amended Article: 10 U.S.C. § 806a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to

designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5104. CONFORMING AMENDMENT RELATING TO MILITARY MAGISTRATES.
>
> The first sentence of section 806a(a) of title 10, United States Code (article 6a(a) of the Uniform Code of Military Justice), is amended by striking "military judge" and all that follows through the end of the sentence and inserting "military appellate judge, military judge, or military magistrate to perform the duties of the position involved.".

Art. 6b, 10 U.S.C. § 806b—Rights of the victim of an offense under this chapter

Congress enacted Art. 6b on Dec. 26, 2013, in the National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1701(a)(1), 127 Stat. 672, 952 (2013). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 806b (Supp. I 2013). The effective date of this new article was not specified, but Congress required the President to make conforming amendments to the Manual for Courts-Martial "[n]ot later than one year after the date of the enactment of this Act [Dec. 26, 2013]." Pub. L. No. 113-66, § 1701(b), 127 Stat. at 953. Information about amendments to Art. 6b since 2013 appears below.

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, §§ 531(f), 535, 128 Stat. 3292, 3364, 3368 (2014).

2. First codification of the amended Article: 10 U.S.C. § 806b (Supp. II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.
>
> * * *
>
> (f) EXTENSION OF CRIME VICTIMS' RIGHTS TO VICTIMS OF OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.—
>
> (1) CLARIFICATION OF LIMITATION ON DEFINITION OF VICTIM TO NATURAL PERSONS.—Subsection (b) of section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), as added by section 1701 of the National Defense

Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 952), is amended by striking "a person" and inserting "an individual".

(2) CLARIFICATION OF AUTHORITY TO APPOINT INDIVIDUALS TO ASSUME RIGHTS OF CERTAIN VICTIMS.—Subsection (c) of such section is amended—

(A) in the heading, by striking "LEGAL GUARDIAN" AND INSERTING "APPOINTMENT OF INDIVIDUALS TO ASSUME RIGHTS";

(B) by inserting "(but who is not a member of the armed forces)" after "under 18 years of age";

(C) by striking "designate a legal guardian from among the representatives" and inserting "designate a representative";

(D) by striking "other suitable person" and inserting "another suitable individual"; and

(E) by striking "the person" and inserting "the individual".

* * *

SEC. 535. ENFORCEMENT OF CRIME VICTIMS' RIGHTS RELATED TO PROTECTIONS AFFORDED BY CERTAIN MILITARY RULES OF EVIDENCE.

Section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(e) ENFORCEMENT BY COURT OF CRIMINAL APPEALS.—(1) If the victim of an offense under this chapter believes that a court-martial ruling violates the victim's rights afforded by a Military Rule of Evidence specified in paragraph (2), the victim may petition the Court of Criminal Appeals for a writ of mandamus to require the court-martial to comply with the Military Rule of Evidence.

"(2) Paragraph (1) applies with respect to the protections afforded by the following:

"(A) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

"(B) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background.".

Amendment of Nov. 25, 2015

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, § 531, 129 Stat. 814 (2015).

2. First codification of the amended Article: 10 U.S.C. § 806b (Supp. III 2015).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 531. ENFORCEMENT OF CERTAIN CRIME VICTIM RIGHTS BY THE COURT OF CRIMINAL APPEALS.

Subsection (e) of section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), is amended to read as follows:

"(e) ENFORCEMENT BY COURT OF CRIMINAL APPEALS.—(1) If the victim of an offense under this chapter believes that a preliminary hearing ruling under section 832 of this title (article 32) or a court-martial ruling violates the rights of the victim afforded by a section (article) or rule specified in paragraph (4), the victim may petition the Court of Criminal Appeals for a writ of mandamus to require the preliminary hearing officer or the court-martial to comply with the section (article) or rule.

"(2) If the victim of an offense under this chapter is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court-martial trying the accused for the offense, the victim may petition the Court of Criminal Appeals for a writ of mandamus to quash such order.

"(3) A petition for a writ of mandamus described in this subsection shall be forwarded directly to the Court of Criminal Appeals, by such means as may be prescribed by the President, and, to the extent practicable, shall have priority over all other proceedings before the court.

"(4) Paragraph (1) applies with respect to the protections afforded by the following:

"(A) This section (article).

"(B) Section 832 (article 32) of this title.

"(C) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background.

"(D) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

"(E) Military Rule of Evidence 514, relating to the victim advocate-victim privilege.

"(F) Military Rule of Evidence 615, relating to the exclusion of witnesses.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5105, 5203(e)(1), 130 Stat. 2000, 2895, 2906 (2016).

2. First codification of the amended Article: 10 U.S.C. § 806b (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5105. RIGHTS OF VICTIM.

(a) DESIGNATION OF REPRESENTATIVE.—Subsection (c) of section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), is amended in the first sentence by striking "the military judge" and all that follows through the end of the sentence and inserting the following: "the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this section.".

(b) RULE OF CONSTRUCTION.—Subsection (d) of such section (article) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(3) to impair the exercise of discretion under sections 830 and 834 of this title (articles 30 and 34).".

(c) INTERVIEW OF VICTIM.—Such section (article) is amended by adding at the end the following new subsection:

"(f) COUNSEL FOR ACCUSED INTERVIEW OF VICTIM OF ALLEGED OFFENSE.—(1) Upon notice by counsel for the Government to counsel for the accused of the name of an alleged victim of an offense under this chapter who counsel for the Government intends to call as a witness at a proceeding under this chapter, counsel for the accused shall make any request to interview the victim through the Special Victims' Counsel or other counsel for the victim, if applicable.

"(2) If requested by an alleged victim who is subject to a request for interview under paragraph (1), any interview of the victim by counsel for the accused shall take place only in the presence of the counsel for the Government, a counsel for the victim, or, if applicable, a victim advocate.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, §§ 531(a), 1081(a)(22), 1081(c)(1)(B), 131 Stat. 1283, 1384, 1595, 1597 (2017).

2. First codification of the amended Article: 10 U.S.C. § 806b (Supp. V 2017).

3. Effective date of the amendment: The amendments made in § 531(a) and § 1081(c)(1)(B) became effective on January 1, 2019. *See* Pub. L. No. 115-9, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967)."); *Id.* § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

(a) ENFORCEMENT OF RIGHTS OF VICTIMS OF OFFENSES UNDER UCMJ.—Section 806b(e)(3) of title 10, United States Code (article 6b(e)(3) of the Uniform Code of Military Justice), is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "President, and, to the extent practicable, shall have priority over all other proceedings before the court." and inserting the following; "President, subject to section 830a of this title (article 30a)."; and

(3) by adding at the end the following new subparagraphs:

"(B) To the extent practicable, a petition for a writ of mandamus described in this subsection shall have priority over all other proceedings before the Court of Criminal Appeals.

"(C) Review of any decision of the Court of Criminal Appeals on a petition for a writ of mandamus described in this subsection shall have priority in the Court of Appeals for the Armed Forces, as determined under the rules of the Court of Appeals for the Armed Forces.".

* * *

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(22) Section 806b(b) (article 6b(b) of the Uniform Code of Military Justice) is amended by striking "(the Uniform Code of Military Justice)".

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(B) Subsection (b) of section 806b (article 6b), as amended by section 5105 of the Military Justice Act of 2016 (130 Stat. 2895) is amended by striking "(the Uniform Code of Military Justice)".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 5541, 135 Stat. 1541, 1708 (2021).

2. First codification of the amended Article: 10 U.S.C. § 806b (Supp. III 2021).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 541. RIGHTS OF THE VICTIM OF AN OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE.
>
> Section 806b(a) of title 10, United States Code (article 6b(a) of the Uniform Code of Military Justice), is amended—
>
> (1) by redesignating paragraph (8) as paragraph (9); and
>
> (2) by inserting after paragraph (7) the following new paragraph:
>
> "(8) The right to be informed in a timely manner of any plea agreement, separation-in-lieu-of-trial agreement, or non-prosecution agreement relating to the offense, unless providing such information would jeopardize a law enforcement proceeding or would violate the privacy concerns of an individual other than the accused.".

Art. 7, 10 U.S.C. § 807—Apprehension

Congress created Art. 7 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 111 (1950). Art. 7 originally was codified at 50 U.S.C. § 561 (1952). In 1956, as shown below, Congress directed that Art. 7 be re-codified at 10 U.S.C. § 807. Information about amendments to Art. 807 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 39 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 807 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "Into custody" and "of a person" are transposed.
>
> In subsection (c), the words "All" and "shall" are omitted as surplusage. The word "Commissioned" is inserted before the word "officers" for clarity. The word "therein" is substituted for the words "in the same".

Art. 8, 10 U.S.C. § 808—Apprehension of deserters

Congress created Art. 8 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 111 (1950). Art. 8 originally was codified at 50 U.S.C. § 562 (1952). In 1956, as shown below, Congress directed that Art. 8 be re-codified at 10 U.S.C. § 808. Information about amendments to Art. 8 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 40 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 808 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" Is substituted for the words "It shall be lawful for * * * to". The words "a State, Territory, Commonwealth, or possession, or the District of Columbia" are substituted for the words "any State, District, Territory, or possession of the United States". The words "of the United States", before the words "and deliver", are omitted as surplusage. The words "those forces" are substituted for the words "the armed forces of the United States", after the words "custody of".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(4), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 808 (Supp. V. 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (4) Section 808 is amended by striking "Territory, Commonwealth, or possession," and inserting "Commonwealth, possession,".

Art. 9, 10 U.S.C. § 809—Imposition of restraint

Congress created Art. 9 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 111 (1950). Art. 9 originally was codified at 50 U.S.C. § 563 (1952). In 1956, as shown below, Congress directed that Art. 9 be re-codified at 10 U.S.C. § 809. Information about amendments to Art. 9 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 40 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 809 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b), the word "commissioned" is inserted before the word "officer" for clarity. The words "member" and "members", respectively, are substituted for the words "person" and persons".
>
> In subsection (c), the words "A commissioned" are substituted for the word "An" for clarity. The word "commissioned" is inserted after the word "another" for clarity.
>
> In subsection (d), the word "may" is substituted for the word "shall".
>
> In subsection (e), the word "limits" is substituted for the words "shall be construed to limit".

Art. 10, 10 U.S.C. § 810—Restraint of persons charged

Congress created Art. 10 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 111 (1950). Art. 10 originally was codified at 50 U.S.C. § 564 (1952). In 1956, as shown below, Congress directed that Art. 10 be re-codified at 10 U.S.C. § 810. Information about amendments to Art. 10 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 40 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 810 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "he" is substituted for the words "such person".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5121, 130 Stat. 2000, 2896 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 810 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5121. RESTRAINT OF PERSONS CHARGED.
>
> Section 810 of title 10, United States Code (article 10 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 810. ART. 10. RESTRAINT OF PERSONS CHARGED.
>
> "(a) IN GENERAL.—(1) Subject to paragraph (2), any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.
>
> "(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.
>
> "(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.—(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken—
>
> "(A) to inform the person of the specific offense of which the person is accused; and
>
> "(B) to try the person or to dismiss the charges and release the person.

> "(2) To facilitate compliance with paragraph (1), the President shall prescribe regulations setting forth procedures relating to referral for trial, including procedures for prompt forwarding of the charges and specifications and, if applicable, the preliminary hearing report submitted under section 832 of this title (article 32).".

Art. 11, 10 U.S.C. § 811—Reports and receiving of prisoners

Congress created Art. 11 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 112 (1950). Art. 11 originally was codified at 50 U.S.C. § 565 (1952). In 1956, as shown below, Congress directed that Art. 11 be re-codified at 10 U.S.C. § 811. Information about amendments to Art. 11 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 40 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 811 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "may" is substituted for the word "shall". The words "a commissioned" are substituted for the word "an" for clarity.

Art. 12, 10 U.S.C. § 812—Prohibition of confinement of members of the armed forces with enemy prisoners and certain others

Congress created Art. 12 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 112 (1950). Art. 12 originally was codified at 50 U.S.C. § 566 (1952). In 1956, as shown below, Congress directed that Art. 12 be re-codified at 10 U.S.C. § 812. Information about amendments to Art. 12 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 41 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 812 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "of the United States" are omitted as surplusage. The word "may" is substituted for the word "shall".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5122, 130 Stat. 2000, 2896 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 812 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5122. MODIFICATION OF PROHIBITION OF CONFINEMENT OF MEMBERS OF THE ARMED FORCES WITH ENEMY PRISONERS AND CERTAIN OTHERS.
>
> Section 812 of title 10, United States Code (article 12 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 812. Art. 12. Prohibition of confinement of members of the armed forces with enemy prisoners and certain others
>
> "No member of the armed forces may be placed in confinement in immediate association with—
>
> "(1) enemy prisoners; or
>
> "(2) other individuals—
>
> "(A) who are detained under the law of war and are foreign nationals; and
>
> "(B) who are not members of the armed forces.".

Art. 13, 10 U.S.C. § 813—Punishment prohibited before trial

Congress created Art. 13 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 112 (1950). Art. 13 originally was codified at 50 U.S.C. § 567 (1952). In 1956, as shown below, Congress directed that Art. 13 be re-codified at 10 U.S.C. § 813. Information about amendments to Art. 13 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 41 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 813 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "the provisions of" are omitted as surplusage. The word "results" is changed to the singular. The word "may" is substituted for the word "shall".

Amendment of Nov. 20, 1981

1. Law amending the Article: Military Justice Amendments of 1981, Pub. L. No. 97-81, § 3, 95 Stat. 1085, 1087 (1981)

2. First codification of the amended Article: 10 U.S.C. § 813 (1976 & Supp. V 1981).

3. Effective date of the amendment: January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1089 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act."); *Id.* § 7(b)(2), 95 Stat. at 1089 ("The amendments made by section 3 shall apply to each person held as the result of a court-martial sentence announced on or after the effective date of such amendments.").

4. Text of the amendment:

> Sec. 3. Section 813 (article 13) is amended—,
>
> (1) by striking out "Subject to section 857 of this title (article 57), no" and inserting in lieu thereof "No"; and
>
> (2) by striking out "or the result of trial".

Art. 14, 10 U.S.C. § 814—Delivery of offenders to civil authorities

Congress created Art. 14 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 112 (1950). Art. 14 originally was codified at 50 U.S.C. § 568 (1952). In 1956, as shown below, Congress directed that Art. 14 be re-codified at 10 U.S.C. § 814. Information about amendments to Art. 14 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 41 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 814 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of the Department".
>
> In subsection (b), the word "interrupts" is substituted for the words "shall be held to interrupt". The word "his" is substituted for the words "the said court-martial".

Art. 15, 10 U.S.C. § 815—Commanding officer's non-judicial punishment

Congress created Art. 15 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 112 (1950). Art. 15 originally was codified at 50 U.S.C. § 571 (1952). In 1956, as shown below, Congress directed that Art. 15 be re-codified at 10 U.S.C. § 815. Information about amendments to Art. 15 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 41 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 815 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the words "not more than" are substituted for the words "a period not to exceed", "not to exceed", and "a period not exceeding".

In subsection (a) (1), the words "and warrant officers" are omitted, since the word "officer", as defined in section 101 (14) of this title, includes warrant officers. In clause (1) (C), the words "one month's pay" are substituted for the words "his pay per month for a period not exceeding one month".

In subsection (b), the words "Secretary concerned" are substituted for the words "Secretary of a Department".

In subsection (c), the word "subsections" is substituted for the word "subdivisions". The words "enlisted members" are substituted for the words "enlisted persons".

In subsections (d) and (e), the words "authority of" are omitted as surplusage.

In subsection (d), the word "considers" is substituted for the word "deems". The word "may" is substituted for the words "shall have power to * * * to". In subsection (e), the words "is not" are substituted for the words "shall not be".

Amendment of Sept. 7, 1962

1. Law amending the Article: Act of September 7, 1962, Pub. L. No. 87-648, § 1, 76 Stat. 447, 447 (1962).

2. First codification of the amended Article: 10 U.S.C. § 815 (1958 & Supp. IV 1962).

3. Effective date of the amendment: March 1, 1963. *See* Pub. L. No. 87-648, § 2, 76 Stat. at 450 ("This Act becomes effective on the first day of the fifth month following the month in which it is enacted.").

4. Text of the amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 815 (article 15) of title 10, United States Code, is amended to read as follows:

"§ 815. Art. 15. Commanding officer's non judicial punishment

"(a) Under such regulations the President may prescribe, and under such additional regulations as may be prescribed by the Secretary concerned, limitations may be placed on the powers granted by this article with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this article to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the Secretary concerned, a commanding officer exercising

general court-martial jurisdiction or an officer of general or flag rank in command may delegate his powers under this article to a principle assistant.

"(b) Subject to subsection (a) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial—

"(1) upon officers of his command—

"(A) restriction to certain specified limits, with or without suspension from duty, for nor more than 30 consecutive days;

"(B) if imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command—

"(i) arrest in quarters for not more than 30 consecutive days;

"(ii) forfeiture of not more than one-half of one month's pay per month for two months;

"(iii) restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

"(iv) detention of not more than one-half of one month's pay per month for three months;

"(2) upon other personnel of his command—

"(A) if imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days;
"(B) correctional custody for not more than seven consecutive days;

"(C) forfeiture of.not more than seven days' pay:

"(D) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

"(E) extra duties, including fatigue or other duties, for not more than 14 consecutive days;

"(F) restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days;

"(G) detention of not more that, 14 days' pay;

"(H) if imposed by an officer of the grade of major or lieutenant commander, or above—

"(i) the punishment authorized under subsection (b)(2)(A);

"(ii) correctional custody for not more than 30 consecutive days;

(iii) forfeiture of not more than one-half of one month's pay per month for two months;

"(iv) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes time reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

"(v) extra duties including fatigue or other duties, for not more than 45 consecutive days;

"(vi) restrictions to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

"(vii) detention of not more than one-half of one month's pay per month for three monthsl.

Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two or more of the punishments of arrest in quarters, confinement on bread and water or diminished rations, correctional custody, extra duties, and restriction may be combined to run in the maximum amount imposable for each. Whenever any of the punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an appointment. For the purposes of this subsection, 'correctional custody is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

"(c) An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized under subsection (b)(2) (A)-(G) as the Secretary concerned may specifically prescribe by regulation.

"(d) The officer who imposes the punishment authorized in subsection (b), or his successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating—

"(1) arrest in quarters to restriction;

"(2) confinement on bread and water or diminished rations to correctional custody;

"(3) correctional custody or confinement on bread and water or diminished rations to extra duties or restrictions, or both; or

"(4) Extra duties to restriction;

"(5) extra duties for more than 14 days;

"(6) restriction for more than 14 days; or

"(7) detention of more than 14 days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate of the Army or Air Force, a law specialist of the Navy, or a law specialist or lawyer of the Marine Corps, Coast Guard, or Treasury Department for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (b).

"(f) The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact

that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

"(g) The Secretary concerned may, by regulation, prescribe the form of records to be kept of proceedings under this article and may also prescribe that certain categories of those proceedings shall be in writing."

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, § 1(4), 81 Stat. 545, 545 (1967).

2. First codification of the amended Article: 10 U.S.C. § 815 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended as follows:

* * *

(4) Section 815(e) is amended by striking out the words "Army or Air Force, a law specialist of the Navy" in the last sentence and substituting in place thereof the words "Army, Navy, Air Force, or Marine Corps".

Amendment of Oct. 22, 1968

1. Law amending the Article: Act of Oct. 22, 1968, Pub. L. No. 90-623, § 2(4), 82 Stat. 1312, 1314 (1968).

2. First codification of the amended Article: 10 U.S.C. § 815 (1964 & Supp. IV 1968).

3. Effective date of the amendment: October 22, 1968. *See* Pub. L. No. 90-623, § 6(a) Oct. 22, 1968, 82 Stat. 1315 ("Sections 1-5 of this Act restate, without substantive change, the laws replaced by those sections on the effective date of this Act.").

4. Text of the amendment:

SEC. 2. Title 10, United States Code, is amended as follows:

* * *

(4) In section 815 (e) (article 15 (e)), strike out "or a law specialist or lawyer of the Marine Corps, Coast Guard, or Treasury Department" in the last sentence and insert in place thereof "or a law specialist or lawyer of the Coast Guard or Department of Transportation";

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 2(c), 13(b), 97 Stat. 1393, 1393, 1408 (1983).

2. First codification of the amended Article: 10 U.S.C. § 815 (1982 & Supp. I 1983).

3. Effective date of the amendment: The amendments made by § 2(c) became effective on August 1, 1984, and the amendments made by § 13(b) became effective on Dec. 6, 1983. *See* Pub. L. No. 98-209, § 12(a)(1) ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act, except that the amendments made by sections 9, 11 and 13 shall be effective on the date of the enactment of this Act.").

4. Text of the amendment:

> Sec. 2.
>
> * * *
>
> (c) Section 815(e) (article 15(e)) // 10 USC 815. // is amended by striking out "of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or" and inserting in lieu thereof "or a lawyer of the".
>
> * * *
>
> Sec. 13.
>
> * * *
>
> (b)(1) The heading of section 815 (article 15) is amended to read as follows:
>
> "Section 815. Art. 15. Commanding officer's non-judicial punishment".
>
> (2) Subsection (b) of such section (article) is amended—,
>
> (A) by striking out "of this section"; and
>
> (B) by striking out "subsection (b)(2)(A)" in clause (2)(H)(i) and inserting in lieu thereof "clause (A)".

Amendment of Nov. 25, 2002

1. Law amending the Article: Homeland Security Act of 2002, Pub. L. No. 107-296, § 1704(b)(1), 116 Stat. 2135, 2314 (2002)

2. First codification of the amended Article: 10 U.S.C. § 815 (Supp. II 2002).

3. Effective date of amendment: March 1, 2003. *See* Pub. L. No. 107-296, § 1704(g), 116 Stat. at 2314 ("The amendments made by this section . . . shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security].").

4. Text of the amendment:

SEC. 1704. COAST GUARD.

* * *

(b) TITLE 10, UNITED STATES CODE.—(1) Title 10, United States Code, is amended in sections * * * 815(e), [and other listed sections] * * * by striking "of Transportation" each place it appears and inserting "of Homeland Security".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5141, 130 Stat. 2000, 2897 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 815 (2018).

3. Effective date of the amendment: "The amendment to Article 15 of the UCMJ enacted by section 5141 of the MJA shall apply to any nonjudicial punishment imposed on or after January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 7, 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5141. MODIFICATION OF CONFINEMENT AS NON-JUDICIAL PUNISHMENT.

Section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A), by striking "on bread and water or diminished rations"; and

(B) in the undesignated matter after paragraph (2), by striking "on bread and water or diminished rations" in the sentence beginning "No two or more"; and

(2) in subsection (d), by striking "on bread and water or diminished rations" in paragraphs (2) and (3).

Art. 16, 10 U.S.C. § 816—Courts-martial classified

Congress created Art. 16 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 113 (1950). Art. 16 originally was codified at 50 U.S.C. § 576 (1952). In 1956, as shown below, Congress directed that Art. 16 be re-codified at 10 U.S.C. § 816. Information about amendments to Art. 16 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 42 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 816 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "The" is substituted for the words "There shall be". The word "are" is substituted for the word "namely". The words "not less than five members" are substituted for the words "any number of members not less than five". The words "not less than three members" are substituted for the words "any number of members not less than three". The word "commissioned" is inserted before the word "officer" in clause (3) for clarity.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(3), 82 Stat. 1335, 1335 (1968).

2. First codification of the amended Article: 10 U.S.C. § 816 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> Sec. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (3) Section 816 (article 16) is amended to read as follows:
>
> "816. Art. 16. Courts-martial classified
>
> "The three kinds of court-martial in each of the armed forces are—
>
> "(1) general court-martial, consisting of—
>
> "(A) a military judge and not less than five members; or
>
> "(B) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves'
>
> "(2) special court-martial, consisting of—

"(A) not less than three members; or

"(B) a military judge and not less than three members; or

"(C) only a military judge , if one has been detailed to the court, and the accused under the same conditions as those prescribed in clause (1)(B) so requests; and

"(3) summary court-martial, consisting of one commissioned officer."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 3(a), 97 Stat. 1393, 1394 (1983).

2. First codification of the amended Article: 10 U.S.C. § 816 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

MATTERS RELATING TO THE MILITARY JUDGE, COUNSEL, AND MEMBERS OF THE COURT-MARTIAL

Sec. 3. (a) Section 816(1)(B) (article 16(1)(B)) is amended by inserting "orally on the record or" before "in writing".

Amendment of Dec. 28, 2001

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, § 582(a), 115 Stat. 1012, 1124 (2001).

2. First codification of the amended Article: 10 U.S.C. § 816 (Supp. I 2001).

3. Effective date of the amendment: *See* Pub. L. No. 107-107, § 582(d), 115 Stat. at 1125 ("The amendments made by this section shall apply with respect to offenses committed after December 31, 2002.").

4. Text of the amendment:

SEC. 582. REQUIREMENT THAT COURTS-MARTIAL CONSIST OF NOT LESS THAN 12 MEMBERS IN CAPITAL CASES.

(a) CLASSIFICATION OF GENERAL COURT-MARTIAL IN CAPITAL CASES.—Section 816(1)(A) of title 10, United States Code (article 16(1)(A) of the Uniform Code of Military Justice) is amended by inserting after "five members" the following: "or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a)".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5161, 130 Stat. 2000, 2897 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 816 (2018).

3. Effective date of the amendment: In general, the amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] 16(c)(2) . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id.* § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5161. COURTS-MARTIAL CLASSIFIED.

Section 816 of title 10, United States Code (article 16 of the Uniform Code of Military Justice), is amended to read as follows:

§ 816. ART 16. COURTS-MARTIAL CLASSIFIED.

"(a) IN GENERAL.—The three kinds of courts-martial in each of the armed forces are the following:

"(1) General courts-martial, as described in subsection (b).

"(2) Special courts-martial, as described in subsection (c).

"(3) Summary courts-martial, as described in subsection (d).

"(b) GENERAL COURTS-MARTIAL.—General courts-martial are of the following three types:

"(1) A general court-martial consisting of a military judge and eight members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

"(2) In a capital case, a general court-martial consisting of a military judge and the number of members determined under section 825a of this title (article 25a), subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

"(3) A general court-martial consisting of a military judge alone, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

"(c) SPECIAL COURTS-MARTIAL.—Special courts-martial are of the following two types:

"(1) A special court-martial consisting of a military judge and four members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

"(2) A special court-martial consisting of a military judge alone—

"(A) if the case is so referred by the convening authority, subject to section 819 of this title (article 19) and such limitations as the President may prescribe by regulation; or

"(B) if the case is referred under paragraph (1) and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

"(d) SUMMARY COURT-MARTIAL.—A summary court-martial consists of one commissioned officer.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(C), 131 Stat. 1283, 1597 (2017).

2. First codification of the amended Article: 10 U.S.C. § 817 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(C) Subsections (b) and (c) of section 816 (article 16), as amended by section 5161 of the Military Justice Act of 2016 (130 Stat. 2897) are amended by striking "sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29)" each place it appears and inserting "sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29)".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(b)(1), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 816 (Supp. V 2023).

3. Effective date of the amendment: December 27, 2023. *See* Pub. L. 118, § 531(e), 137 Stat. at 260 ("The amendments made by subsection (b) . . . shall take effect immediately after the coming into effect of the amendments made by part 1 of subtitle D of title V of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) as provided in section 539C of that Act (10 U.S.C. 801 note).")

4. Text of the amendment:

> SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (b) TECHNICAL AMENDMENTS RELATING TO THE MILITARY JUSTICE REFORMS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022.—
>
> (1) ARTICLE 16.—Subsection (c)(2)(A) of section 816 of title 10, United States Code (article 16 of the Uniform Code of Military Justice), is amended by striking "by the convening authority".

Art. 17, 10 U.S.C. § 817—Jurisdiction of courts-martial in general

Congress created Art. 17 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 114 (1950). Art. 17 originally was codified at 50 U.S.C. § 577 (1952). In 1956, as shown below, Congress directed that Art. 17 be re-codified at 10 U.S.C. § 817. Information about amendments to Art. 17 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 43 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 817 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "has" is substituted for the words "shall have".

In subsection (b), the word "after" is substituted for the words "subsequent to". The words "the provisions of" are omitted as surplusage. The words "department that includes the" are inserted before the words "armed force", since the review is carried out by the department and not by the armed force.

Art. 18, 10 U.S.C. § 818—Jurisdiction of general courts-martial

Congress created Art. 18 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 114 (1950). Art. 18 originally was codified at 50 U.S.C. § 578 (1952). In 1956, as shown below, Congress directed that Art. 18 be re-codified at 10 U.S.C. § 818. Information about amendments to Art. 18 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 43 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 818 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "shall" is omitted as surplusage wherever it occurs.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(4), 82 Stat. 1335, 1335 (1968).

2. First codification of the amended Article: 10 U.S.C. § 818 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(4) Section 818 (article 18) is amended by adding the following sentence at the end thereof: "However, a general court-martial of the kind specified in section 816(1) (B) of this title (article 16(1) (B)) shall not have jurisdiction to t ry any person for any offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case."

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1705(b), 127 Stat. 672, 959 (2013).

2. First codification of the amended Article: 10 U.S.C. § 818 (Supp. I 2013).

3. Effective date of the amendment: December 26, 2013. *See* Pub. L. No. 113-66, § 1705(c), 127 Stat. at 960 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act, and apply to offenses specified in section 856(b)(2) of title 10, United States Code (article 56(b)(2) of the Uniform Code of Military Justice), as added by subsection (a)(1), committed on or after that date.").

4. Text of the amendment:

SEC. 1705. DISCHARGE OR DISMISSAL FOR CERTAIN SEX-RELATED OFFENSES AND TRIAL OF SUCH OFFENSES BY GENERAL COURTS-MARTIAL.

* * *

(b) JURISDICTION LIMITED TO GENERAL COURTS-MARTIAL.—Section 818 of title 10, United States Code (article 18 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before the first sentence;

(2) in the third sentence, by striking "However, a general court-martial" and inserting the following:

"(b) A general court-martial"; and

(3) by adding at the end the following new subsection:

"(c) Consistent with sections 819, 820, and 856(b) of this title (articles 19, 20, and 56(b)), only general courts-martial have jurisdiction over an offense specified in section 856(b)(2) of this title (article 56(b)(2)).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5162, 130 Stat. 2000, 2898 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 818 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to

the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5162. JURISDICTION OF GENERAL COURTS-MARTIAL.
>
> Section 818 of title 10, United States Code (article 18 of the Uniform Code of Military Justice), is amended—
>
> (1) in subsection (b), by striking "section 816(1)(B) of this title (article 16(1)(B))" and inserting "section 816(b)(3) of this title (article 16(b)(3))"; and
>
> (2) by striking subsection (c) and inserting the following new subsection (c):
>
> "(c) Consistent with sections 819 and 820 of this title (articles 19 and 20), only general courts-martial have jurisdiction over the following offenses:
>
> "(1) A violation of subsection (a) or (b) of section 920 of this title (article 120).
>
> "(2) A violation of subsection (a) or (b) of section 920b of this title (article 120b).
>
> "(3) An attempt to commit an offense specified in paragraph (1) or (2) that is punishable under section 880 of this title (article 80).".

Art. 19, 10 U.S.C. § 819—Jurisdiction of special courts-martial

Congress created Art. 19 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 114 (1950). Art. 19 originally was codified at 50 U.S.C. § 579 (1952). In 1956, as shown below, Congress directed that Art. 19 be re-codified at 10 U.S.C. § 819. Information about amendments to Art. 19 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 43 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 819 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "shall" in the first sentence is omitted as surplusage. The words "for more than" are substituted for the words "in excess of". The words "more than" are substituted for the words "a period exceeding". The word "may" is substituted for the word "shall" in the last sentence.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(5), 82 Stat. 1335, 1335 (1968).

2. First codification of the amended Article: 10 U.S.C. § 819 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(5) Section 819 (article 19) is amended by striking out the last sentence and inserting the following sentence in place thereof: "A bad-conduct discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under section 827(b) of this title (article 70AStat. 46; 27(b)) was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. In any such case in which a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed."

Amendment of Oct. 5, 1999

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), § 577(a), 113 Stat. 512, 625 (1999).

2. First codification of the amended Article: 10 U.S.C. § 819 (Supp. V 1999).

3. Effective date of the amendment: October 5, 1999. *See* Pub. L. No. 106-65, § 577(b), 113 Stat. at 625 ("The amendments made by subsection (a) shall take effect on the first day of the sixth month beginning after the date of the enactment of this Act and shall apply with respect to charges referred on or after that effective date to trial by special courts-martial.").

4. Text of the amendment:

SEC. 577. AUTHORITY FOR SPECIAL COURTS-MARTIAL TO IMPOSE SENTENCES TO CONFINEMENT AND FORFEITURES OF PAY OF UP TO ONE YEAR.

(a) MAXIMUM PUNISHMENTS THAT MAY BE ADJUDGED BY A SPECIAL COURT-MARTIAL.—Section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), is amended—

(1) in the second sentence, by striking "six months" both places it appears and inserting "one year"; and

(2) in the third sentence, by inserting after "A bad conduct discharge" the following: ", confinement for more than six months, or forfeiture of pay for more than six months".

Amendment of Dec. 28, 2001

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, § 1048(g)(4), 115 Stat. 1012, 1125 (2001).

2. First codification of the amended Article: 10 U.S.C. § 819 (Supp. I 2001).

3. Effective date of the amendment: October 5, 1999. *See* Pub. L. No. 107-107, § 1048(g), 115 Stat. at 1125 (quoted in amendment below).

4. Text of the amendment:

SEC. 1048. TECHNICAL AND CLERICAL AMENDMENTS.

* * *

(g) PUBLIC LAW 106-65.—Effective as of October 5, 1999, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) is amended as follows:

* * *

(4) Section 577(a)(2) (113 Stat. 625) is amended by striking "bad conduct" in the first quoted matter and inserting "bad-conduct".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5163, 130 Stat. 2000, 2898 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 819 (2018).

3. Effective date of the amendment: In general, the amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] . . . 19(b) . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id*. § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909

(authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5163. JURISDICTION OF SPECIAL COURTS-MARTIAL.
>
> Section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), is amended—
>
> (1) by striking "Subject to" in the first sentence and inserting the following:
>
> "(a) IN GENERAL.—Subject to";
>
> (2) by striking "A bad-conduct discharge" and all that follows through the end; and
>
> (3) by adding after subsection (a), as designated by paragraph (1), the following new subsections:
>
> "(b) ADDITIONAL LIMITATION.—Neither a bad-conduct discharge, nor confinement for more than six months, nor forfeiture of pay for more than six months may be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)).
>
> "(c) MILITARY MAGISTRATE.—If charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)), the military judge, with the consent of the parties, may designate a military magistrate to preside over the special court-martial.".

Art. 20, 10 U.S.C. § 820—Jurisdiction of summary courts-martial

Congress created Art. 20 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 114 (1950). Art. 20 originally was codified at 50 U.S.C. § 580 (1952). In 1956, as shown below, Congress directed that Art. 20 be re-codified at 10 U.S.C. § 820. Information about amendments to Art. 20 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 43 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 820 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "shall" in the first sentence is omitted as surplusage. The word "may" is substituted for the word "shall" in the second sentence. The words "the provisions of" are omitted as surplusage. The word "If" is substituted for the word "Where". The words "for more than" are substituted for the words "in excess of". The words "more than" are substituted for the words "pay in excess of".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(6), 82 Stat. 1335, 1336 (1968).

2. First codification of the amended Article: 10 U.S.C. § 820 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(6) The second and third sentences of section 820 (article 20) are amended to read as follows: "No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto. If objection to trial by summary court-martial is made by an accused, trial may be ordered by special or general court-martial as may be appropriate."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5164, 130 Stat. 2000, 2899 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 820 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5164. SUMMARY COURT-MARTIAL AS NON-CRIMINAL FORUM.

Section 820 of title 10, United States Code (article 20 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a) IN GENERAL.—" before "SUBJECT TO"; and

(2) by adding at the end the following new subsection:

"(b) NON-CRIMINAL FORUM.—A summary court-martial is a non-criminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.".

Art. 21, 10 U.S.C. § 821—Jurisdiction of courts-martial not exclusive

Congress created Art. 21 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 115 (1950). Art. 21 originally was codified at 50 U.S.C. § 581 (1952). In 1956, as shown below, Congress directed that Art. 21 be re-codified at 10 U.S.C. § 821. Information about amendments to Art. 21 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 44 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 821 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "do not deprive" are substituted for the words "shall not be construed as depriving". The words "with respect to" are substituted for the words "in respect of".

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 821 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

* * *

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, [and other listed sections] * * * are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Art. 22, 10 U.S.C. § 822—Who may convene general courts-martial

Congress created Art. 22 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 115 (1950). Art. 22 originally was codified at 50 U.S.C. § 586 (1952). In 1956, as shown below, Congress directed that Art. 22 be re-codified at 10 U.S.C. § 822. Information about amendments to Art. 22 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 44 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 822 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> Subsection (a) (2) is substituted for the words "the Secretary of a Department".
>
> In subsection (a) (4), the words "continental limits of the" are omitted, since section 101 (1) of this title defines the United States to include the States and the District of Columbia.
>
> In subsection (a) (6), the words "any other commanding officer" are substituted for the words "such other commanding officers as may be".
>
> In subsection (b), the word "If" is substituted for the word "When". The words "if considered" are substituted for the words "when deemed".

Amendment of Oct. 1, 1986

1. Law amending the Article: Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, § 211(b), 100 Stat. 992, 1017 (1986).

2. First codification of the amended Article: 10 U.S.C. § 822 (1982 & Supp. IV 1986).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 211. ESTABLISHMENT OF COMBATANT COMMANDS AND AUTHORITY OF COMMANDERS

* * *

(b) COURT-MARTIAL JURISDICTION. —Section 822(a) (article 22(a) of the Uniform Code of Military Justice) "10 USC 822" is amended —

(1) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (1) the following new paragraphs (2) and (3):

"(2) the Secretary of Defense;

"(3) the commanding officer of a unified or specified combatant commands;".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(2), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 822 (Supp. V. 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.

(a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(2) The following sections are amended by striking the terms "Territory or", "or Territory", "a Territorial Department,", "or a Territory", "Territory and", "its Territories,", and "and Territories" each place they appear: sections 101(a)(3), 332, 822, 1072, 1103, 2671, 3037, 5148, 8037, 8074, 12204, and 12642.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5181, 130 Stat. 2000, 2899 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 822 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* §

3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5181. TECHNICAL AMENDMENT RELATING TO PERSONS AUTHORIZED TO CONVENE GENERAL COURTS-MARTIAL.
>
> Section 822(a)(6) of title 10, United States Code (article 22(a)(6) of the Uniform Code of Military Justice), is amended by striking "in chief".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 534(a), 135 Stat. 1541, 1696 (2021).

2. First codification of the amended Article: 10 U.S.C. § 822 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

> SEC. 534. CLARIFICATION RELATING TO WHO MAY CONVENE COURTS-MARTIAL.
>
> (a) GENERAL COURTS-MARTIAL.—Section 822(b) of title 10, United States Code (article 22(b) of the Uniform Code of Military Justice), is amended—
>
> (1) by striking "If any" and inserting "(1) If any"; and
>
> (2) by adding at the end the following new paragraph:
>
> "(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a general court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.".

Art. 23, 10 U.S.C. § 823—Who may convene special courts-martial

Congress created Art. 23 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 115 (1950). Art. 23 originally was codified at 50 U.S.C. § 587 (1952). In 1956, as shown below, Congress directed that Art. 23 be re-codified at 10 U.S.C. § 823. Information about amendments to Art. 23 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 44 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 823 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a) (7), the w&Ads "Secretary concerned" are substituted for the words "Secretary of a Department".
>
> In subsection (b), the word "If" is substituted for the word "When". The words "if considered" are substituted for the words "when deemed".

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 924(b)(21)(B), 134 Stat. 3388, 3824 (2021).

2. First codification of the amended Article: 10 U.S.C. § 823 (Supp. II 2020).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 924. AMENDMENTS TO OTHER PROVISIONS OF TITLE 10, UNITED STATES CODE.
>
> * * *
>
> (b) OTHER PROVISIONS OF SUBTITLE A.—
>
> * * *
>
> (21) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of Military Justice) is amended—
>
> * * *
>
> (B) in section 823(a) (article 23(a))—
>
> (i) in paragraph (2)—
>
> (I) by striking "Air Force base" and inserting "Air Force or Space Force military installation"; and
>
> (II) by striking "or the Air Force" and inserting "the Air Force, or the Space Force"; and

(ii) in paragraph (4), by inserting "or a corresponding unit of the Space Force" after "Air Force"; and

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 534(b), 135 Stat. 1541, 1696 (2021).

2. First codification of the amended Article: 10 U.S.C. § 823 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

SEC. 534. CLARIFICATION RELATING TO WHO MAY CONVENE COURTS-MARTIAL.

* * *

(b) SPECIAL COURTS-MARTIAL.—Section 823(b) of title 10, United States Code (article 23(b) of the Uniform Code of Military Justice), is amended—

(1) by striking "If any" and inserting "(1) If any"; and

(2) by adding at the end the following new paragraph:

"(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a special court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.".

Art. 24, 10 U.S.C. § 824—Who may convene summary courts-martial

Congress created Art. 24 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 116 (1950). Art. 24 originally was codified at 50 U.S.C. § 588 (1952). In 1956, as shown below, Congress directed that Art. 24 be re-codified at 10 U.S.C. § 824. Information about amendments to Art. 24 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 45 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 824 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a) (4), the words "Secretary concerned" are substituted for the words "Secretary of a Department". In subsection (b), the words "only one commissioned" are substituted for the words "but one" for clarity. The word "considered" is substituted for the word "deemed".

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 924(b)(21)(C), 134 Stat. 3388, 3824 (2021).

2. First codification of the amended Article: 10 U.S.C. § 824 (Supp. II 2020).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 924. AMENDMENTS TO OTHER PROVISIONS OF TITLE 10, UNITED STATES CODE.
>
> * * *
>
> (b) OTHER PROVISIONS OF SUBTITLE A.—
>
> * * *
>
> (21) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of Military Justice) is amended—
>
> * * *
>
> (C) in section 824(a)(3) (article 24(a)(3)), by inserting "or a corresponding unit of the Space Force" after "Air Force".

Art. 24a, 10 U.S.C. § 824a—Special trial counsel

Amendment of Dec. 27, 2021

1. Law amending the Article: Congress added Art. 24(a) in the National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 531(a), 135 Stat. 1541, 1692 (2021).

2. First codification of the amended Article: 10 U.S.C. § 824a (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023 or two years after the President prescribes regulations necessary to carry out the amendment. *See* Pub. L. No. 117-81, § 539(c), 135 Stat. 1541, 1699.

4. Text of the amendment: *See* 10 U.S.C. § 824a (Supp. III 2021) (providing the full text of the new article).

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 542(a), 136 Stat 2395, 2581 (2022).

2. First codification of the amended Article: 10 U.S.C. § 824a (Supp. IV 2022).

3. Effective date of the amendment: "The amendments made by subsection (a) shall take effect immediately after the coming into effect of the amendments made by section 531 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1692) as provided in section 539C of that Act (10 U.S.C. 801 note)." Pub. L. No. 117-263, § 542(b), 136 Stat. at 2581.

4. Text of the amendment:

> SEC. 542. TECHNICAL CORRECTIONS RELATING TO SPECIAL TRIAL COUNSEL.
>
> (a) TECHNICAL CORRECTIONS.—Section 824a(c)(3) of title 10, United States Code (article 24a(c)(3) of the Uniform Code of Military Justice), is amended—
>
> (1) by striking "Subject to paragraph (4)" and inserting "Subject to paragraph (5)"; and
>
> (2) in subparagraph (D), by striking "an ordered rehearing" and inserting "an authorized rehearing".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(c)(1), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 824a (Supp. V 2023).

3. Effective date of the amendment: December 27, 2023. *See* Pub. L. 118, § 531(e), 137 Stat. at 160 ("The amendments made by . . . subsection (c)(1) shall take effect immediately after the coming into effect of the amendments made by part 1 of subtitle D of title V of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) as provided in section 539C of that Act (10 U.S.C. 801 note)."); *see also id.* § 531(c)(2) (amending Section 539C(a) of the National Defense Authorization Act for Fiscal Year 2022 to create an exception for Art. 824a(d), UCMJ").

4. Text of the amendment:

> SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *

(c) AUTHORITY OF SPECIAL TRIAL COUNSEL WITH RESPECT TO CERTAIN OFFENSES OCCURRING BEFORE EFFECTIVE DATE OF MILITARY JUSTICE REFORMS ENACTED IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022.—

(1) AUTHORITY.—Section 824a of title 10, United States Code (article 24a of the Uniform Code of Military Justice), as added by section 531 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81; 135 Stat. 1692), is amended by adding at the end the following new subsection:

"(d) SPECIAL TRIAL COUNSEL AUTHORITY OVER CERTAIN OTHER OFFENSES.—

"(1) OFFENSES OCCURRING BEFORE EFFECTIVE DATE.—A special trial counsel may, at the sole and exclusive discretion of the special trial counsel, exercise authority over the following offenses:

"(A) An offense under section 917a (article 117a), 918 (article 118), section 919 (article 119), section 920 (article 120), section 920b (article 120b), section 920c (article 120c), section 928b (article 128b), or the standalone offense of child pornography punishable under section 934 (article 134) of this title that occurred on or before December 27, 2023.

"(B) An offense under section 925 (article 125), section 930 (article 130), or section 932 (article 132) of this title that occurred on or after January 1, 2019, and before December 28, 2023.

"(C) An offense under section 920a (article 120a) of this title, an offense under section 925 (article 125) of this title alleging an act of nonconsensual sodomy, or the standalone offense of kidnapping punishable under section 934 (article 134) of this title that occurred before January 1, 2019.

"(D) A conspiracy to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 881 of this title (article 81).

"(E) A solicitation to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 882 of this title (article 82).

"(F) An attempt to commit an offense specified in subparagraph (A), (B), (C), (D), or (E) as punishable under section 880 of this title (article 80).

"(2) EFFECT OF EXERCISE OF AUTHORITY.—

"(A) TREATMENT AS COVERED OFFENSE.—If a special trial counsel exercises authority over an offense pursuant to paragraph (1), the offense over which the special trial counsel exercises authority shall be considered a covered offense for purposes of this chapter.

"(B) KNOWN OR RELATED OFFENSES.—If a special trial counsel exercises authority over an offense pursuant to paragraph (1), the special trial counsel may exercise the authority of the special trial counsel under subparagraph (B) of subsection (c)(2) with respect to other offenses described in that subparagraph without regard to the date on which the other offenses occur.".

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 562, 138 Stat 1773, 1903 (2024).

2. First codification of the amended Article: 10 U.S.C. § 824a (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> Section 824a(d) of title 10, United States Code, as added by section 531 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31; 137 Stat. 258), is amended—
>
> (1) in paragraph (1)(A), by striking "section 920 (article 120)," and inserting "section 919a (article 119a), section 920 (article 120), section 920a (article 120a),";
>
> (2) by redesignating paragraph (2) as paragraph (3);
>
> (3) by inserting after paragraph (1) the following new paragraph:
>
> "(2) THE STANDALONE OFFENSE OF SEXUAL HARASSMENT.—After January 1, 2025, a special trial counsel may, at the sole and exclusive discretion of the special trial counsel, exercise authority over the following offenses:
>
> "(A) The standalone offense of sexual harassment punishable under section 934 of this title (article 134) in each instance in which—
>
> "(i) the offense occurs after January 26, 2022, and on or before January 1, 2025; and
>
> "(ii) a formal complaint is substantiated in accordance with regulations prescribed by the Secretary concerned.
>
> "(B) A conspiracy to commit an offense specified in subparagraph (A) as punishable under section 881 of this title (article 81).
>
> "(C) A solicitation to commit an offense specified in subparagraph (A) as punishable under section 882 of this title (article 82).
>
> "(D) An attempt to commit an offense specified in subparagraph (A), (B), or (C) as punishable under section 880 of this title (article 80).."; and
>
> (4) in paragraph (3), as so redesignated—
>
> (A) in subparagraph (A), by inserting "or (2)" after "paragraph (1)"; and
>
> (B) in subparagraph (B), by striking "paragraph (1)" and inserting "subsection (c)(2)(A) or paragraph (1) or (2) of this subsection".

Art. 25, 10 U.S.C. § 825—Who may serve on courts-martial

Congress created Art. 25 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 116 (1950). Art. 25 originally was codified at 50 U.S.C. § 589 (1952). In 1956, as shown below, Congress

directed that Art. 25 be re-codified at 10 U.S.C. § 825. Information about amendments to Art. 25 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 45 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 825 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 195 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "commissioned" is inserted before the word "officer" for clarity. The word "is" is substituted for the words "shall be".
>
> In subsections (a), (b), and (c) (1), the words "with the armed forces" are omitted as surplusage.
>
> In subsection (b), the word "is" is substituted for the words "shall be". The words "a commissioned" are substituted for the word "an" for clarity.
>
> In subsection (c), the words "member" and "members", respectively are substituted for the words "person" and "persons". The words "of an armed force" are inserted for clarity.
>
> In subsection (c) (1), the word "is" is substituted for the words "shall be". The word "before" is substituted for the words "prior to". The words "the accused may not" are substituted for the words "no enlisted person shall", for clarity. The word "If" is substituted for the word "Where".
>
> In subsection (c) (2), the word "means" is substituted for the words "shall mean". The words "Secretary concerned" are substituted for the words "Secretary of the Department". The word "may" is substituted for the word "shall". The word "than", before the words "a body", is omitted as surplusage.
>
> In subsection (d) (1), the word "may" is substituted for the word "shall". The word "member" is substituted for the word "person".
>
> In subsection (d) (2), the word "is" is substituted for the words "shall be". The word "detail" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense. The words "member of an armed force" and "members of the armed forces", respectively, are substituted for the words "person" and "persons".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(7), 82 Stat. 1335, 1336 (1968).

2. First codification of the amended Article: 10 U.S.C. § 825 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (7) Section 825(c) (1) (article 25(c) (1)) is amended—
>
> (A) by striking out "before the convening of the court," in the first sentence and inserting "before the conclusion of a session called by the military judge under section 83&(a) of this title (article 39(a)) prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused," in place thereof; and
>
> (B) by striking out "convened" in the last sentence and inserting "assembled" in place thereof.

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 3(b), 13(c), 97 Stat. 1393, 1394, 1408 (1983).

2. First codification of the amended Article: 10 U.S.C. § 825 (1982 & Supp. I 1983).

3. Effective date of the amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act, except that the amendments made by sections 9, 11 and 13 shall be effective on the date of the enactment of this Act."); *Id.* § 12(a)(2), 97 Stat. at 1407 ("The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.").

4. Text of the amendment:

> Sec. 3.
>
> * * *
>
> (b) Section 825 (article 25) is amended by adding at the end thereof the following new subsection:

"(e) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under such regulations as the Secretary concerned may prescribe, the convening authority may delegate his authority under this subsection to his staff judge advocate or legal officer or to any other principal assistant.".

* * *

Sec. 13.

* * *

(c) Section 825(c)(2) (article 25(c)(2)) is amended by striking out "the word".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 803(a), 100 Stat. 3816, 3906 (1986).

2. First codification of the amended Article: 10 U.S.C. § 825 (1982 and Supp. IV 1986).

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 804(e), 100 Stat. at 3907 ("The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title."); *Id.* § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

SEC. 803. APPLICATION FOR ENLISTED MEMBERS TO SERVE ON COURT-MARTIAL

(a) IN GENERAL. —Section 825(c)(1) (article 25(c)(1)) is amended by striking out "has requested in writing" and inserting in lieu thereof "has requested orally on the record or in writing".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5182, 5203(e)(2), 130 Stat. 2000, 2899, 2906 (2016).

2. First codification of the amended Article: 10 U.S.C. § 825 (2018).

3. Effective date of the amendment: In general, the amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] . . . 25(d)(2) and (3) . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id*. § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when

done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5182. WHO MAY SERVE ON COURTS-MARTIAL AND RELATED MATTERS.
(a) WHO MAY SERVE ON COURTS-MARTIAL.—Subsection (c) of section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), is amended to read as follows:

"(c)(1) Any enlisted member on active duty is eligible to serve on a general or special court-martial for the trial of any other enlisted member.

"(2) Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that—

"(A) the membership of the court-martial be comprised entirely of officers; or

"(B) enlisted members comprise at least one-third of the membership of the court-martial, regardless of whether enlisted members have been detailed to the court-martial.

"(3) Except as provided in paragraph (4), after such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

"(4) If, because of physical conditions or military exigencies, a sufficient number of eligible officers or enlisted members, as the case may be, is not available to carry out paragraph (2), the trial may nevertheless be held. In that event, the convening authority shall make a detailed written statement of the reasons for nonavailability. The statement shall be appended to the record.".

(b) WHO MAY SENTENCE.—Such section (article) is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Except as provided in paragraph (2) for capital offenses, the accused in a court-martial with a military judge and members may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members.

"(2) In a capital case, the accused shall be sentenced by the members for all offenses for which the court-martial may sentence the accused to death in accordance with section 853(c) of this title (article 53(c)).

"(3) In a capital case, if the accused is convicted of a non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with section 853(b) of this title (article 53(b)), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.".

(c) DETAIL OF MEMBERS.—Subsection (e) of such section (article), as redesignated by subsection (b)(1) of this section, is amended by adding at the end the following new paragraph:

"(3) The convening authority shall detail not less than the number of members necessary to impanel the court-martial under section 829 of this title (article 29).".

* * *

SEC. 5203. PRELIMINARY HEARING REQUIRED BEFORE REFERRAL TO GENERAL COURT-MARTIAL.

* * *

(e) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "investigating officer" and inserting "preliminary hearing officer":

* * *

(2) Section 825(d)(2) of such title (article 25(d)(2) of the Uniform Code of Military Justice).

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 543(a), 136 Stat 2395, 2582 (2022).

2. First codification of the amended Article: 10 U.S.C. § 825 (Supp. IV 2022).

3. Effective date of the amendment: "The amendment made by subsection (a) shall take effect on the date that is two years after the date of the enactment of this Act and shall apply with respect to courts-martial convened on or after that effective date." Pub. L. No. 117-263, § 543(b), 136 Stat. at 2582.

4. Text of the amendment:

SEC. 543. RANDOMIZATION OF COURT-MARTIAL PANELS.

(a) IN GENERAL.—Section 825(e) of title 10, United States Code (article 25(e) of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(4) When convening a court-martial, the convening authority shall detail as members thereof members of the armed forces under such regulations as the President may prescribe for the randomized selection of qualified personnel, to the maximum extent practicable.".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(b)(2), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 825 (Supp. V 2023).

3. Effective date of the amendment: December 27, 2023. *See* Pub. L. 118, § 531(e), 137 Stat. at 260 ("The amendments made by subsection (b) . . . shall take effect immediately after the coming into effect of the amendments made by part 1 of subtitle D of title V of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) as provided in section 539C of that Act (10 U.S.C. 801 note).")

4. Text of the amendment:

SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

* * *

(b) TECHNICAL AMENDMENTS RELATING TO THE MILITARY JUSTICE REFORMS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022.—

(2) ARTICLE 25.—Section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), is amended—

(A) in subsection (d)—

(i) in paragraph (1), by striking "may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members" and inserting "shall be sentenced by the military judge"; and

(ii) by amending paragraph (2) to read as follows:

"(2) In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death, the accused shall be sentenced in accordance with section 853(c) of this title (article 53(c)).";

(B) in subsection (e)—

(i) in paragraph (1), by striking "him" and inserting "the member being tried"; and

(ii) in paragraph (2)—

(I) in the first sentence, by striking "his opinion" and inserting "the opinion of the convening authority"; and

(II) in the second sentence, by striking "he" and inserting "the member"; and

(C) in subsection (f), in the second sentence—

(i) by striking "his authority" and inserting "the authority of the convening authority"; and

(ii) by striking "his staff judge advocate or legal officer" and inserting "the staff judge advocate or legal officer of the convening authority".

Art. 25a, 10 U.S.C. § 825a—Number of court-martial members in capital cases

Congress created Art. 25a on Dec. 28, 2001 in the National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, §§ 582(b)(1), 115 Stat. 1012, 1124 (2001). It was codified before subsequent amendment at 10 U.S.C. § 825(a) (Supp. I 2001). It became effective on Dec. 31, 2002. *See* Pub. L. No. 107-107, § 582(d), 115 Stat. at 1125. Information about amendments to Art. 25a since 2001 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: amended National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5183, 130 Stat. 2000, 2900 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 825a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5183. NUMBER OF COURT-MARTIAL MEMBERS IN CAPITAL CASES.
>
> Section 825a of title 10, United States Code (article 25a of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 825a. ART. 25A. Number of court-martial members in capital cases
>
> "(a) IN GENERAL.—In a case in which the accused may be sentenced to death, the number of members shall be 12.
>
> "(b) CASE NO LONGER CAPITAL.—Subject to section 829 of this title (article 29)—
>
> "(1) if a case is referred for trial as a capital case and, before the members are impaneled, the accused may no longer be sentenced to death, the number of members shall be eight; and
>
> "(2) if a case is referred for trial as a capital case and, after the members are impaneled, the accused may no longer be sentenced to death, the number of members shall remain 12.".

Art. 26, 10 U.S.C. § 826—Military judge of a general or special court-martial

Congress created Art. 26 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 117 (1950). Art. 26 originally was codified at 50 U.S.C. § 590 (1952). In 1956, as shown below, Congress directed that Art. 26 be re-codified at 10 U.S.C. § 826. Information about amendments to Art. 26 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 46 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 826 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "a commissioned" are substituted for the word "an" for clarity. The words "of the United States" are omitted as surplusage. The word "is" is substituted for the words "shall be". The word "if" is substituted for the word "when". The word "detail" Is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense.
>
> In subsection (b), the word "may" is substituted for the word "shall".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(9), 82 Stat. 1335, 1336 (1968).

2. First codification of the amended Article: 10 U.S.C. § 826 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (9) Section 826 (article 26) is amended to read as follows: "§ 826. Art. 26. Military judge of a general or special court-martial

"(a) The authority convening a general court-martial shall, and, subject to regulations of the Secretary concerned, the authority convening a special court-martial may, detail a military judge thereto. A military judge shall preside over each open session of the court-martial to which he has been detailed.

"(b) A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court or a member of the bar of the highest court of a State and who is certified to be qualified for duty as a military judge by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) The military judge of a general court-martial shall be designated by the Judge Advocate General, or his designee, of the armed force of which the military judge is a member for detail by the convening authority, and, unless the court-martial was convened by the President or the Secretary concerned, neither the convening authority nor any member of his staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to his performance of duty as a military judge. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform such duties only when he is assigned and directly responsible to the Judge Advocate General, or his designee, of the armed force of which the military judge is a member and may perform duties of a judicial or nonjudicial nature other than those relating to his primary duty as a military judge of a general court-martial when such duties are assigned to him by or with the approval of that Judge Advocate General or his designee.

"(d) No person is eligible to act as military judge in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or a counsel in the same case.

"(e) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 3(c)(1), 97 Stat. 1393, 1394 (1983).

2. First codification of the amended Article: 10 U.S.C. § 826 (1982 & Supp. I 1983).

3. Effective date of the amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act, except that the amendments made by sections 9, 11 and 13 shall be effective on the date of the enactment of this Act."); *Id.*, § 12(a)(2), 97 Stat. at 1407 ("The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.").

4. Text of the amendment:

Sec. 3.

* * *

(c)(1) Section 826 (article 26) is amended—,

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) A military judge shall be detailed to each general court-martial. Subject to regulations of the Secretary concerned, a military judge may be detailed to any special court-martial. The Secretary concerned shall prescribe regulations providing for the manner in which military judges are detailed for such courts—, martial and for the persons who are authorized to detail military judges for such courts-martial. The military judge shall preside over each open session of the court-martial to which he has been detailed."; and

(B) in the first sentence of subsection (c), by striking out "by the convening authority, and, unless" and inserting in lieu thereof "in accordance with regulations prescribed under subsection (a). Unless".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5184, 5203(e)(3), 130 Stat. 2000, 2901, 2906 (2016).

2. First codification of the amended Article: 10 U.S.C. § 826 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5184. DETAILING, QUALIFICATIONS, AND OTHER MATTERS RELATING TO MILITARY JUDGES.

(a) DETAIL TO SPECIAL COURTS-MARTIAL.—Subsection (a) of section 826 of title 10, United States Code (article 26 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by inserting after "each general" the following: "and special"; and

(2) by striking the second sentence.

(b) QUALIFICATIONS.—Subsection (b) of such section (article) is amended by striking "qualified for duty" and inserting "qualified, by reason of education, training, experience, and judicial temperament, for duty".

(c) DETAIL AND ASSIGNMENT.—Subsection (c) of such section (article) is amended to read as follows:

"(c)(1) In accordance with regulations prescribed under subsection (a), a military judge of a general or special court-martial shall be designated for detail by the Judge Advocate General of the armed force of which the military judge is a member.

"(2) Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to the military judge's performance of duty as a military judge.

"(3) A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial—

"(A) may perform such duties only when the officer is assigned and directly responsible to the Judge Advocate General of the armed force of which the military judge is a member; and

"(B) may perform duties of a judicial or nonjudicial nature other than those relating to the officer's primary duty as a military judge of a general court-martial when such duties are assigned to the officer by or with the approval of that Judge Advocate General.

"(4) In accordance with regulations prescribed by the President, assignments of military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.".

(d) DETAIL TO A DIFFERENT ARMED FORCE.—Such section (article) is further amended by adding at the end the following new subsection:

"(f) A military judge may be detailed under subsection (a) to a court-martial or a proceeding under section 830a of this title (article 30a) that is convened in a different armed force, when so permitted by the Judge Advocate General of the armed force of which the military judge is a member.".

(e) CHIEF TRIAL JUDGES.—Such section (article), as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(g) In accordance with regulations prescribed by the President, each Judge Advocate General shall designate a chief trial judge from among the members of the applicable trial judiciary.".

* * *

SEC. 5203. PRELIMINARY HEARING REQUIRED BEFORE REFERRAL TO GENERAL COURT-MARTIAL.

* * *

(e) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "investigating officer" and inserting "preliminary hearing officer":

* * *

(3) Section 826(d) of such title (article 26(d) of the Uniform Code of Military Justice).

Art. 26a, 10 U.S.C. § 826a.—Military magistrates

Congress created Art. 26a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5185, 130 Stat. 2000, 2901 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 26a is codified at 10 U.S.C. § 826a (2018). It became effective on January 1, 2019. *See Id.* § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 26a.

Art. 27, 10 U.S.C. § 827—Detail of trial counsel and defense counsel

Congress created Art. 27 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 117 (1950). Art. 27 originally was codified at 50 U.S.C. § 591 (1952). In 1956, as shown below, Congress directed that Art. 27 be re-codified at 10 U.S.C. § 827. Information about amendments to Art. 27 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 46 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 827 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words, "detail" and "detailed" are substituted for the words "appoint" and "appointed" throughout the revised section, since the filling of the position involved is not appointment to an office in the constitutional sense.
>
> In subsection (a), the word "and" is substituted for the words "together with". The word "considers" is substituted for the word "deems". The words "necessary or" are omitted as surplusage, since what is necessary is also appropriate. The word "may" is substituted for the word "shall". The word "later" is substituted for the word "subsequently".
>
> In subsections (b) and (c), the word "must" is substituted for the word "shall", since the clauses prescribe conditions and not commands.

In subsection (b), the word "for" is substituted for the words "in the case of". The words "person * * * a person who is" are omitted as surplusage.

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, § 1(5), 81 Stat. 545, 546 (1967).

2. First codification of the amended Article: 10 U.S.C. § 827 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United states Code, is amended as follows:

* * *

(5) Section 827(b)(1) is amended by striking out the words "or the Air Force, or a law specialist of the Navy or" and inserting in place thereof the words ", Navy, Air Force, or Marine Corps or a law specialist of the".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(10), 82 Stat. 1335, 1337 (1968).

2. First codification of the amended Article: 10 U.S.C. § 827 (1964 & Supp. IV 1968).

3. Effective date of amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

Sec. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(10) Section 827 is amended—

(A) by striking out "law officer" ill the second sentence of subsection (a) and inserting in lieu thereof "military judge"; and
(B) by redesignating paragraphs (1) and (2) of subsection (c) as paragraphs (2) and (3), respectively, and by inserting a new paragraph (1) as follows:

"(1) the accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under section 827 (b) of this title (article 27 (b)) unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel having such qualifications cannot be obtained, the court may

be convened and the trial held but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 2(d), 3(c)(2), 97 Stat. 1393, 1393-94 (1983).

2. First codification of the amended Article: 10 U.S.C. § 827 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

Sec. 2.

* * *

(d) Section 827 (article 27) is amended—,

(1) in subsection (b)(1), by striking out "of the Army, Navy, Air Force, or Marine Corps or a law specialist of the Coast Guard,"; and

(2) in subsection (c)(3), by striking out ", or a law specialist,".

(e) Section 842(a) (article 42(a)) is amended by striking out ", law specialist," both places it appears in the third sentence.

(f) Section 936(a) (article 136(a)) is amended—,

(1) in clause (1), by striking out "of the Army, Navy, Air Force, and Marine Corps"; and

(2) by striking out clause (2) and redesignating clauses (3) through (7) as clauses (2) through (6), respectively.

* * *

Sec. 3.

* * *

(c)* * *

* * *

(2) Section 827(a) (article 27(a)) // 10 USC 827. // is amended—,

(A) by striking out "For each" and all that follows through "appropriate." and inserting in lieu thereof the following:

"(1) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The Secretary concerned shall prescribe

regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts—,

martial."; and

(B) by designating the sentence beginning "No person who has acted as investigating officer" as paragraph (2) and by striking out "assistant defense counsel" in such sentence and inserting in lieu thereof "assistant or associate defense counsel".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5186, 130 Stat. 2000, 2902 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 827 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5186. QUALIFICATIONS OF TRIAL COUNSEL AND DEFENSE COUNSEL.

Section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking "No person" and all that follows through "trial counsel," the first place it appears and inserting "No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel,";

(2) in the first sentence of subsection (b), by striking "Trial counsel or defense counsel" and inserting "Trial counsel, defense counsel, or assistant defense counsel"; and

(3) by striking subsection (c) and inserting the following new subsections:

"(c)(1) Defense counsel and assistant defense counsel detailed for a special court-martial shall have the qualifications set forth in subsection (b).

"(2) Trial counsel and assistant trial counsel detailed for a special court-martial and assistant trial counsel detailed for a general court-martial must be determined to be competent to perform such duties by the Judge Advocate General, under such rules as the President may prescribe.

"(d) To the greatest extent practicable, in any capital case, at least one defense counsel shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 535, 135 Stat. 1541, 1696 (2021).

2. First codification of the amended Article: 10 U.S.C. § 827 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

SEC. 535. DETAIL OF TRIAL COUNSEL.

Section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(e) For each general and special court-martial for which charges and specifications were referred by a special trial counsel—

"(1) a special trial counsel shall be detailed as trial counsel;

and

"(2) a special trial counsel may detail other trial counsel as necessary who are judge advocates.".

Art. 28, 10 U.S.C. § 828—Detail or employment of reporters and interpreters

Congress created Art. 28 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 117 (1950). Art. 28 originally was codified at 50 U.S.C. § 592 (1952). In 1956, as shown below, Congress directed that Art. 28 be re-codified at 10 U.S.C. § 828. Information about amendments to Art. 28 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 47 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 828 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "Secretary concerned" are substituted for the words "Secretary of the Department". The words, "detail or employ" are substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense.

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 828 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:
>
> * * *
>
> (2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Art. 29, 10 U.S.C. § 829—Assembly and impaneling of members; detail of new members and military judges

Congress created Art. 29 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 117 (1950). Art. 29 originally was codified at 50 U.S.C. § 593 (1952). In 1956, as shown below, Congress directed that Art. 29 be re-codified at 10 U.S.C. § 829. Information about amendments to Art. 29 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 47 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 829 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsections (a), (b), and (c), the word "may" is substituted for the word "shall".
>
> In subsections (b) and (c), the word "details" is substituted for the word "appoints", since the filling of the position involved is not appointment to an office in the constitutional sense.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(11), 82 Stat. 1335, 1337 (1968).

2. First codification of the amended Article: 10 U.S.C. § 829 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (11) Section 829 (article 29) is amended—
>
> (A) by striking out "accused has been arraigned" in subsection (a) and inserting "court has been assembled for the trial of the accused" in place thereof;
>
> (B) by inserting ", other than a general court-martial composed of a military judge only," after "court-martial" in the first sentence of subsection (b); and by amending the last sentence of subsection (b) to read as follows: "The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides." ;
>
> (C) by inserting ", other than a special court-martial composed of a military judge only," after "court-martial" in the first sentence of subsection (c); and by amending the last sentence of subsection (c) to read as follows: "The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or

a stipulation thereof is read to the court in the presence of the military judge, if any, the accused and counsel for both sides,"; and

(D) by adding the following new subsection at the end thereof: "(d) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of section 816(1)(B) or (2)(C) of this title (article 16(1)(B) or (2)(C)) , after the detail *Ante.* p. 1335. of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 3(d), 97 Stat. 1393, 1394 (1983).

2. First codification of the amended Article: 10 U.S.C. § 829 (1982 & Supp. I 1983).

3. Effective date of amendment: *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1394 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

MATTERS RELATING TO THE MILITARY JUDGE, COUNSEL, AND MEMBERS OF THE COURT-MARTIAL

Sec. 3.

* * *

(d) Section 829(a) (article 29(a)) is amended by striking out "except for" and all that follows through the period and inserting in lieu thereof the following: "unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.".

Amendment of Dec. 28, 2001

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, § 582(c), 115 Stat. 1012, 1124 (2001).

2. First codification of the amended Article: 10 U.S.C. § 829 (Supp. I 2001).

3. Effective date of the amendment: *See* Pub. L. No. 107-107, § 582(d), 115 Stat. at 1125 ("The amendments made by this section shall apply with respect to offenses committed after December 31, 2002.").

4. Text of the amendment:

SEC. 582. REQUIREMENT THAT COURTS-MARTIAL CONSIST OF NOT LESS THAN 12 MEMBERS IN CAPITAL CASES.

* * *

(c) ABSENT AND ADDITIONAL MEMBERS.—Section 829(b) of such title (article 29 of the Uniform Code of Military Justice) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking "five members" both places it appears and inserting "the applicable minimum number of members"; and

(3) by adding at the end the following new paragraph:

"(2) In this section, the term 'applicable minimum number of members' means five members or, in a case in which the death penalty may be adjudged, the number of members determined under section 825a of this title (article 25a).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5187, 130 Stat. 2000, 2902 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 829 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5187. ASSEMBLY AND IMPANELING OF MEMBERS AND RELATED MATTERS. Section 829 of title 10, United States Code (article 29 of the Uniform Code of Military Justice), is amended to read as follows:

§ 829. Art 29. Assembly and impaneling of members; detail of new members and military judges

"(a) ASSEMBLY.—The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused—

"(1) as a result of a challenge;

"(2) under subsection (b)(1)(B); or

"(3) by order of the military judge or the convening authority for disability or other good cause.

"(b) IMPANELING.—(1) Under rules prescribed by the President, the military judge of a general or special court-martial with members shall—

"(A) after determination of challenges, impanel the court-martial; and

"(B) excuse the members who, having been assembled, are not impaneled.

"(2) In a general court-martial, the military judge shall impanel—

"(A) 12 members in a capital case; and

"(B) eight members in a noncapital case.

"(3) In a special court-martial, the military judge shall impanel four members.

"(c) ALTERNATE MEMBERS.—In addition to members under subsection (b), the military judge shall impanel alternate members, if the convening authority authorizes alternate members.

"(d) DETAIL OF NEW MEMBERS.—(1) If, after members are impaneled, the membership of the court-martial is reduced to—

"(A) fewer than 12 members with respect to a general court-martial in a capital case;

"(B) fewer than six members with respect to a general court-martial in a noncapital case; or

"(C) fewer than four members with respect to a special court-martial; the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide the membership specified in paragraph (2).

"(2) The membership referred to in paragraph (1) is as follows:

"(A) 12 members with respect to a general court-martial in a capital case.

"(B) At least six but not more than eight members with respect to a general court-martial in a noncapital case.

"(C) Four members with respect to a special court-martial.

"(e) DETAIL OF NEW MILITARY JUDGE.—If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

"(f) EVIDENCE.—(1) In the case of new members under subsection (d), the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

"(2) In the case of a new military judge under subsection (e), the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the

case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.

Art. 30, 10 U.S.C. § 830—Charges and specifications

Congress created Art. 30 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 118 (1950). Art. 30 originally was codified at 50 U.S.C. § 601 (1952). In 1956, as shown below, Congress directed that Art. 30 be re-codified at 10 U.S.C. § 830. Information about amendments to Art. 30 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 47 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 830 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "they" is substituted for the words "the same". The word "commissioned" is inserted for clarity.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5201, 130 Stat. 2000, 2904 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 830 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5201. CHARGES AND SPECIFICATIONS.

Section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice), is amended to read as follows:

§ 830. ART 30. Charges and specifications

"(a) IN GENERAL.—Charges and specifications—

"(1) may be preferred only by a person subject to this chapter; and

"(2) shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

"(b) REQUIRED CONTENT.—The writing under subsection (a) shall state that—

"(1) the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

"(2) the matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.

"(c) DUTY OF PROPER AUTHORITY.—When charges and specifications are preferred under subsection (a), the proper authority shall, as soon as practicable—

"(1) inform the person accused of the charges and specifications; and

"(2) determine what disposition should be made of the charges and specifications in the interest of justice and discipline.".

Art 30a, 10 U.S.C. § 830a—Proceedings conducted before referral

Congress created Art. 30a on Dec. 23, 2016, in the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5201, 130 Stat. 2000, 2904 (2016). (Note that sections 5001-5542 of this Act may also be cited as the "Military Justice Act of 2016." *Id.* at § 5001.) Article 30a was first codified at 10 U.S.C. § 830a (2018). The Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542). Information about amendments to Art. 30a since 2016 appears below.

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(b), 131 Stat. 1283, 1384 (2017).

2. First codification of the amended Article: 10 U.S.C. § 830a (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1384 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).")

4. Text of the amendment:

> SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.
>
> * * *
>
> (b) REVIEW OF CERTAIN MATTERS BEFORE REFERRAL OF CHARGES AND SPECIFICATIONS.—Subsection (a)(1) of section 830a of title 10, United States Code (article 30a of the Uniform Code of Military Justice), as added by section 5202 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2904), is amended—
>
> (1) in the matter preceding subparagraph (A), by inserting ", or otherwise act on," after "to review"; and
>
> (2) by adding at the end the following new subparagraph:
>
> "(D) Pre-referral matters under subsection (c) or (e) of section 806b of this title (article 6b).".

Amendment of Dec. 20, 2019

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 531(a), (b)(1), 133 Stat. 1198, 1359 (2019).

2. First codification of the amended Article: 10 U.S.C. § 830a (Supp. I 2019).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 531. EXPANSION OF PRE-REFERRAL MATTERS REVIEWABLE BY MILITARY JUDGES AND MILITARY MAGISTRATES IN THE INTEREST OF EFFICIENCY IN MILITARY JUSTICE.
>
> (a) IN GENERAL.—Subsection (a) of section 830a of title 10, United States Code (article 30a of the Uniform Code of Military Justice), is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:
>
> "(1) The President shall prescribe regulations for matters relating to proceedings conducted before referral of charges and specifications to court-martial for trial, including the following:
>
> "(A) Pre-referral investigative subpoenas.
>
> "(B) Pre-referral warrants or orders for electronic communications.
>
> "(C) Pre-referral matters referred by an appellate court.

"(D) Pre-referral matters under subsection (c) or (e) of section 806b of this title (article 6b).

"(E) Pre-referral matters relating to the following:

"(i) Pre-trial confinement of an accused.

"(ii) The mental capacity or mental responsibility of an accused.

"(iii) A request for an individual military counsel.

"(2) In addition to the matters specified in paragraph (1), the regulations prescribed under that paragraph shall—

"(A) set forth the matters that a military judge may rule upon in such proceedings;

"(B) include procedures for the review of such rulings;

"(C) include appropriate limitations to ensure that proceedings under this section extend only to matters that would be subject to consideration by a military judge in a general or special court-martial; and

"(D) provide such limitations on the relief that may be ordered under this section as the President considers appropriate.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

§ 830a. Art 30a. Proceedings conducted before referral".

Art. 31, 10 U.S.C. § 831—Compulsory self-incrimination prohibited

Congress created Art. 31 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 118 (1950). Art. 31 originally was codified at 50 U.S.C. § 602 (1952). In 1956, as shown below, Congress directed that Art. 31 be re-codified at 10 U.S.C. § 831. Information about amendments to Art. 31 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 48 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 831 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "may" is substituted for the word "shall" throughout the revised section.

Art. 32, 10 U.S.C. § 832—Preliminary hearing required before referral to general court-martial

Congress created Art. 32 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 118 (1950). Art. 32 originally was codified at 50 U.S.C. § 603 (1952). In 1956, as shown below, Congress directed that Art. 32 be re-codified at 10 U.S.C. § 832. Information about amendments to Art. 32 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 48 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 832 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "may" is substituted for the word "shall". The words "consideration of the" and "a recommendation as to" are inserted in the interest of accuracy and precision of statement.
>
> In subsection (b), the word "detailed" is substituted for the word "appointed", since the filling of the position involved is not appointment to an office in the constitutional sense.
>
> In subsection (c), the word "before" is substituted for the words "prior to the time". The words "of this section" are omitted as surplusage.
>
> In subsection (d), the word "are" is substituted for the words "shall be." The word "does" is substituted for the words "in any case shall".

Amendment of Nov. 20, 1981

1. Law amending the Article: Military Justice Amendments of 1981, Pub. L. No. 97-81, § 4(a), 95 Stat. 1085, 1088 (1981)

2. First codification of the amended Article: 10 U.S.C. § 832 (1976 & Supp. V 1981).

3. Effective date of the amendment: January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1089 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act."); *Id.* § 7(b)(3), 95 Stat. at 1089 ("The amendment made by section 4(a) shall apply with respect to investigations under section 832

(article 32) of title 10, United States Code, that begin on or after the effective date of such amendment.").

4. Text of the amendment:

> INDIVIDUAL MILITARY COUNSEL
>
> Sec. 4. (a) Section 832(b) (article 32(b)) is amended by striking out the second sentence and inserting in lieu thereof "The accused has the right to be represented at that investigation as provided in section 838 of this title (article 38) and in regulations prescribed under that section.".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1131, 110 Stat. 186, 464 (1996).

2. First codification of the amended Article: 10 U.S.C. § 832 (Supp. II 1996).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 1131. ARTICLE 32 INVESTIGATIONS.
>
> Section 832 (article 32) is amended—
>
> (1) by redesignating subsection (d) as subsection (e); and
>
> (2) by inserting after subsection (c) the following new subsection (d):
>
> "(d) If evidence adduced in an investigation under this article indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused—
>
> "(1) is present at the investigation;
>
> "(2) is informed of the nature of each uncharged offense investigated; and
>
> "(3) is afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b).".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(a)(1), 127 Stat. 672, 954 (2013).

2. First codification of the amended Article: 10 U.S.C. § 832 (Supp. I 2013).

3. Effective date of amendment: December 26, 2014. *See* Pub. L. No. 113-66, § 1702(d)(1), 127 Stat. at 954 ("The amendments made by subsections (a) and (c)(3) shall take effect one year after the date of the enactment of this Act and shall apply with respect to offenses committed under

chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.").

4. Text of the amendment:

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE. (a) USE OF PRELIMINARY HEARINGS.—

(1) IN GENERAL.—Section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 832. Art. 32. Preliminary hearing

"(a) PRELIMINARY HEARING REQUIRED.—(1) No charge or specification may be referred to a general court-martial for trial until completion of a preliminary hearing.

"(2) The purpose of the preliminary hearing shall be limited to the following:

"(A) Determining whether there is probable cause to believe an offense has been committed and the accused committed the offense.

"(B) Determining whether the convening authority has court-martial jurisdiction over the offense and the accused.

"(C) Considering the form of charges.

"(D) Recommending the disposition that should be made of the case.

"(b) HEARING OFFICER.—(1) A preliminary hearing under subsection (a) shall be conducted by an impartial judge advocate certified under section 827(b) of this title (article 27(b)) whenever practicable or, in exceptional circumstances in which the interests of justice warrant, by an impartial hearing officer who is not a judge advocate. If the hearing officer is not a judge advocate, a judge advocate certified under section 827(b) of this title (article 27(b)) shall be available to provide legal advice to the hearing officer.

"(2) Whenever practicable, when the judge advocate or other hearing officer is detailed to conduct the preliminary hearing, the officer shall be equal to or senior in grade to military counsel detailed to represent the accused or the Government at the preliminary hearing.

"(c) REPORT OF RESULTS.—After conducting a preliminary hearing under subsection (a), the judge advocate or other officer conducting the preliminary hearing shall prepare a report that addresses the matters specified in subsections (a)(2) and (f).

"(d) RIGHTS OF ACCUSED AND VICTIM.—(1) The accused shall be advised of the charges against the accused and of the accused's right to be represented by counsel at the preliminary hearing under subsection (a). The accused has the right to be represented at the preliminary hearing as provided in section 838 of this title (article 38) and in regulations prescribed under that section.

"(2) The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence in defense and mitigation, relevant to the limited purposes of the hearing, as provided for in paragraph (4) and subsection (a)(2).

"(3) A victim may not be required to testify at the preliminary hearing. A victim who declines to testify shall be deemed to be not available for purposes of the preliminary hearing.

"(4) The presentation of evidence and examination (including cross-examination) of witnesses at a preliminary hearing shall be limited to the matters relevant to the limited purposes of the hearing, as provided in subsection (a)(2).

"(e) RECORDING OF PRELIMINARY HEARING.—A preliminary hearing under subsection (a) shall be recorded by a suitable recording device. The victim may request the recording and shall have access to the recording as prescribed by the Manual for Courts-Martial.

"(f) EFFECT OF EVIDENCE OF UNCHARGED OFFENSE.—If evidence adduced in a preliminary hearing under subsection (a) indicates that the accused committed an uncharged offense, the hearing officer may consider the subject matter of that offense without the accused having first been charged with the offense if the accused—

"(1) is present at the preliminary hearing;

"(2) is informed of the nature of each uncharged offense considered; and

"(3) is afforded the opportunities for representation, cross-examination, and presentation consistent with subsection (d).

"(g) EFFECT OF VIOLATION.—The requirements of this section are binding on all persons administering this chapter, but failure to follow the requirements does not constitute jurisdictional error.

"(h) VICTIM DEFINED.—In this section, the term 'victim' means a person who—

"(1) is alleged to have suffered a direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification being considered; and

"(2) is named in one of the specifications.".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(a)(4)(A), 128 Stat. 3292, 3363 (2014).

2. First codification of the amended Article: 10 U.S.C. § 832 (Supp. II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.

(a) REVISIONS OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.—

* * *

(4) RESTORATION OF WAIVER OF ARTICLE 32 HEARINGS BY THE ACCUSED.—

(A) IN GENERAL.—Section 832(a)(1) of title 10, United States Code (article 32(a)(1) of the Uniform Code of Military Justice), as amended by section 1702(a)(1) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 954), is amended by inserting ", unless such hearing is waived by the accused" after "preliminary hearing".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5203(a)-(d), 130 Stat. 2000, 2906 (2016). Sections 5001-5542 of this Act may also be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 832 (2018).

3. Effective date of the amendment: "The amendments to Article[] 32 . . . apply with respect to preliminary hearings conducted and advice given on or after January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 8, 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5203. PRELIMINARY HEARING REQUIRED BEFORE REFERRAL TO GENERAL COURT-MARTIAL. (a) IN GENERAL.—Section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), is amended by striking the section heading and subsections (a), (b), and (c) and inserting the following:

§ 832. ART. 32. Preliminary hearing required before referral to general court-martial

"(a) IN GENERAL.—(1)(A) Except as provided in subparagraph (B), a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection (b).

"(B) Under regulations prescribed by the President, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

"(2) The purpose of the preliminary hearing shall be limited to determining the following:

"(A) Whether or not the specification alleges an offense under this chapter.

"(B) Whether or not there is probable cause to believe that the accused committed the offense charged.

"(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense.

"(D) A recommendation as to the disposition that should be made of the case.

"(b) HEARING OFFICER.—(1) A preliminary hearing under this section shall be conducted by an impartial hearing officer, who—

"(A) whenever practicable, shall be a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)); or

"(B) when it is not practicable to appoint a judge advocate because of exceptional circumstances, is not a judge advocate so certified.

"(2) In the case of a hearing officer under paragraph (1)(B), a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)) shall be available to provide legal advice to the hearing officer.

"(3) Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the Government at the preliminary hearing.

"(c) REPORT TO CONVENING AUTHORITY.—After a preliminary hearing under this section, the hearing officer shall submit to the convening authority a written report (accompanied by a *2906 recording of the preliminary hearing under subsection (e)) that includes the following:

"(1) For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under subsection (a)(2), including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial.

"(2) Recommendations for any necessary modifications to the form of the charges or specifications.

"(3) An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense, that, under such rules as the President may prescribe, is relevant to disposition under sections 830 and 834 of this title (articles 30 and 34).

"(4) A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection (f).".

(b) SUNDRY AMENDMENTS.—Subsection (d) of such section (article) is amended—

(1) in paragraph (1), by striking "subsection (a)" in the first sentence and inserting "this section";

(2) in paragraph (2), by striking "in defense" and all that follows through the end and inserting "that is relevant to the issues for determination under subsection (a)(2).";

(3) in paragraph (3), by adding at the end the following new sentence: "A declination under this paragraph shall not serve as the sole basis for ordering a deposition under section 849 of this title (article 49)."; and

(4) in paragraph (4), by striking "the limited purposes of the hearing, as provided in subsection (a)(2)" and inserting "determinations under subsection (a)(2)".

(c) REFERENCE TO MCM.—Subsection (e) of such section (article) is amended by striking "as prescribed by the Manual for Courts-Martial" in the second sentence and inserting "under such rules as the President may prescribe".

(d) EFFECT OF VIOLATION.—Subsection (g) of such section (article) is amended by adding at the end the following new sentence: "A defect in a report under subsection (c) is not a basis for relief if the report is in substantial compliance with that subsection."

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 536, 135 Stat. 1541, 1697-98 (2021).

2. First codification of the amended Article: 10 U.S.C. § 832 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

SEC. 536. PRELIMINARY HEARING.

(a) DETAIL OF HEARING OFFICER; WAIVER.—Subsection (a)(1) of section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), is amended—

(1) in subparagraph (A), by striking "hearing officer" and all that follows through the period at the end and inserting "hearing officer detailed in accordance with subparagraph (C).";

(2) in subparagraph (B), by striking "written waiver" and all that follows through the period at the end and inserting the following: "written waiver to—

"(i) except as provided in clause (ii), the convening authority and the convening authority determines that a hearing is not required; and

"(ii) with respect to charges and specifications over which the special trial counsel is exercising authority in accordance with section 824a of this title (article 24a), the special trial counsel and the special trial counsel determines that a hearing is not required."; and

(3) by adding at the end the following new subparagraph:

"(C)(i) Except as provided in clause (ii), the convening authority shall detail a hearing officer.

"(ii) If a special trial counsel is exercising authority over the charges and specifications subject to a preliminary hearing under this section (article), the special trial counsel shall request a hearing officer and a hearing officer shall be provided by the convening authority, in accordance with regulations prescribed by the President.".

(b) REPORT OF PRELIMINARY HEARING OFFICER.—Subsection (c) of such section is amended—

(1) in the heading, by inserting "OR SPECIAL TRIAL COUNSEL" after "CONVENING AUTHORITY"; and

(2) in the matter preceding paragraph (1) by striking "to the convening authority" and inserting "to the convening authority or, in the case of a preliminary hearing in which the hearing officer is provided at the request of a special trial counsel to the special trial counsel,".

Art. 33, 10 U.S.C. § 833—Disposition guidance

Congress created Art. 33 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 119 (1950). Art. 33 originally was codified at 50 U.S.C. § 604 (1952). In 1956, as shown below, Congress directed that Art. 33 be re-codified at 10 U.S.C. § 833. Information about amendments to Art. 33 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 49 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 833 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5204, 130 Stat. 2000, 2906 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 833 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5204. DISPOSITION GUIDANCE.
>
> Section 833 of title 10, United States Code (article 33 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 833. Art. 33. Disposition guidance
>
> "The President shall direct the Secretary of Defense to issue, in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy, non-binding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under sections 830 and 834 of this title (articles 30 and 34). Such guidance shall take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the Attorney General to attorneys for the Government with respect to disposition of Federal criminal cases in accordance with the principle of fair and evenhanded administration of Federal criminal law.".

Art. 34, 10 U.S.C. § 834—Advice to convening authority before referral for trial

Congress created Art. 34 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 119 (1950). Art. 34 originally was codified at 50 U.S.C. § 605 (1952). In 1956, as shown below, Congress directed that Art. 34 be re-codified at 10 U.S.C. § 834. Information about amendments to Art. 34 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 49 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 834 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "may" is substituted for the word "shall".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 4, 97 Stat. 1393, 1395 (1983).

2. First codification of the amended Article: 10 U.S.C. § 834 (1988).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(3), 97 Stat. at 1407 ("The amendments made by section 4 shall not apply to any case in which charges were referred to trial before the effective date of such amendments, and proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

PRETRIAL ADVICE AND REFERRAL OF CHARGES

Sec. 4.

(a)(1) The first sentence of section 834(a) is amended by striking out "or legal officer".

(2) The second sentence of such section is amended to read as follows: " The convening authority may not refer a specification under a charge to a general court-martial for trial unless he has been advised in writing by the staff judge advocate that—,

"(1) the specification alleges an offense under this chapter;

"(2) the specification is warranted by the evidence indicated in the report of investigation under section 832 of this title (article 32) (if there is such a report); and

"(3) a court-martial would have jurisdiction over the accused and the offense.".

(b) Section 834 (article 34) is further amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The advice of the staff judge advocate under subsection (a) with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate—,

"(1) expressing his conclusions with respect to each matter set forth in subsection (a); and

"(2) recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(c)(3)(B), 127 Stat. 672, 957 (2013).

2. First codification of the amended Article: 10 U.S.C. § 834 (Supp. I 2013).

3. Effective date of amendment: December 26, 2014. *See* Pub. L. No. 113-66, § 1702(d)(1), 127 Stat. at 957 ("The amendments made by subsections (a) and (c)(3) shall take effect one year after the date of the enactment of this Act and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.").

4. Text of the amendment:

> SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (c) CONFORMING AMENDMENTS.—
>
> * * *
>
> (3) REFERENCES TO ARTICLE 32 INVESTIGATION.—
>
> * * *
>
> (B) Section 834(a)(2) of such title (article 34(a)(2) of the Uniform Code of Military Justice) is amended by striking "investigation under section 832 of this title (article 32) (if there is such a report)" and inserting "a preliminary hearing under section 832 of this title (article 32)".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(a)(4)(B), 128 Stat. 3292, 3363 (2014).

2. First codification of the amended Article: 10 U.S.C. § 834 (Supp. II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.
>
> (a) REVISIONS OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.—
>
> * * *

(4) RESTORATION OF WAIVER OF ARTICLE 32 HEARINGS BY THE ACCUSED.—

* * *

(B) CONFORMING AMENDMENT.—Section 834(a)(2) of such title (article 34(a)(2) of the Uniform Code of Military Justice), as amended by section 1702(c)(3)(B) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 957), is amended by inserting "(if there is such a report)" after "a preliminary hearing under section 832 of this title (article 32)".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5205, 130 Stat. 2000, 2907 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 834 (2018).

3. Effective date of the amendment: "The amendments to Article[] 32 . . . apply with respect to preliminary hearings conducted and advice given on or after January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 8, 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5205. ADVICE TO CONVENING AUTHORITY BEFORE REFERRAL FOR TRIAL.

Section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), is amended to read as follows: § 834. Art. 34. Advice to convening authority before referral for trial

"(a) GENERAL COURT-MARTIAL.—

"(1) STAFF JUDGE ADVOCATE ADVICE REQUIRED BEFORE REFERRAL.—Before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that—

"(A) the specification alleges an offense under this chapter;

"(B) there is probable cause to believe that the accused committed the offense charged; and

"(C) a court-martial would have jurisdiction over the accused and the offense.

"(2) STAFF JUDGE ADVOCATE RECOMMENDATION AS TO DISPOSITION.—Together with the written advice provided under paragraph (1), the staff judge advocate shall provide a written recommendation to the convening authority as to the disposition that should be made of the specification in the interest of justice and discipline.

"(3) STAFF JUDGE ADVOCATE ADVICE AND RECOMMENDATION TO ACCOMPANY REFERRAL.—When a convening authority makes a referral for trial by general court-martial, the written advice of the staff judge advocate under paragraph (1) and the written recommendation of the staff judge advocate under paragraph (2) with respect to each specification shall accompany the referral.

"(b) SPECIAL COURT-MARTIAL; CONVENING AUTHORITY CONSULTATION WITH JUDGE ADVOCATE.—Before referral of charges and specifications to a special court-martial for trial, the convening authority shall consult a judge advocate on relevant legal issues.

"(c) GENERAL AND SPECIAL COURTS-MARTIAL; CORRECTION OF CHARGES AND SPECIFICATIONS BEFORE REFERRAL.—Before referral for trial by general court-martial or special court-martial, changes may be made to charges and specifications—

"(1) to correct errors in form; and

"(2) when applicable, to conform to the substance of the evidence contained in a report under section 832(c) of this title (article 32(c)).

"(d) REFERRAL DEFINED.—In this section, the term 'referral' means the order of a convening authority that charges and specifications against an accused be tried by a specified court-martial.".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 537, 135 Stat. 1541, 1697-98 (2021).

2. First codification of the amended Article: 10 U.S.C. § 834 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

SEC. 537. ADVICE TO CONVENING AUTHORITY BEFORE REFERRAL FOR TRIAL.

Section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(1), by striking "Before referral" and inserting "Subject to subsection (c), before referral"

(2) in subsection (b), by striking "Before referral" and inserting "Subject to subsection (c), before referral";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e) respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c) COVERED OFFENSES.—A referral to a general or special court-martial for trial of charges and specifications over which a special trial counsel exercises authority may only be made—

"(1) by a special trial counsel, subject to a special trial counsel's written determination accompanying the referral that—

"(A) each specification under a charge alleges an offense under this chapter;

"(B) there is probable cause to believe that the accused committed the offense charged; and

"(C) a court-martial would have jurisdiction over the accused and the offense; or

"(2) in the case of charges and specifications that do not allege a covered offense and as to which a special trial counsel declines to prefer or, in the case of charges and specifications preferred by a person other than a special trial counsel, refer charges, by the convening authority in accordance with this section."; and

(5) in subsection (e), as so redesignated, by inserting "or, with respect to charges and specifications over which a special trial counsel exercises authority in accordance with section 824a of this title (article 24a), a special trial counsel," after "convening authority".

Art. 35, 10 U.S.C. § 835—Service of charges; commencement of trial

Congress created Art. 35 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 119 (1950). Art. 35 originally was codified at 50 U.S.C. § 606 (1952). In 1956, as shown below, Congress directed that Art. 35 be re-codified at 10 U.S.C. § 835. Information about amendments to Art. 35 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 49 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 835 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall". The word "after" is substituted for the words "subsequent to".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(12), 82 Stat. 1335, 1337 (1968).

2. First codification of the amended Article: 10 U.S.C. § 835 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (12) Section 835 (article 35) is amended by striking out the second sentence and inserting the following in place thereof: "In time of peace no person may, against his objection, be brought to trial, or be required to participate by himself or counsel in a session called by the military judge under section 839(a) of this title (article 39(a)), in a general court-martial case within a period of five days after the service of charges upon him, or in a special court-martial case within a period of three days after the service of charges upon him."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5206, 130 Stat. 2000, 2908 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 835 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5206. SERVICE OF CHARGES AND COMMENCEMENT OF TRIAL.

Section 835 of title 10, United States Code (article 35 of the Uniform Code of Military Justice), is amended to read as follows:

§ 835. Art. 35. Service of charges; commencement of trial

"(a) IN GENERAL.—Trial counsel detailed for a court-martial under section 827 of this title (article 27) shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

"(b) COMMENCEMENT OF TRIAL.—(1) Subject to paragraphs (2) and (3), no trial or other proceeding of a general court-martial or a special court-martial (including any session under section 839(a) of this title (article 39(a)) may be held over the objection of the accused—

"(A) with respect to a general court-martial, from the time of service through the fifth day after the date of service; or

"(B) with respect to a special court-martial, from the time of service through the third day after the date of service.

"(2) An objection under paragraph (1) may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable period under paragraph (1)(A) or (1)(B). If the first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

"(3) This subsection shall not apply in time of war.".

Art. 36, 10 U.S.C. § 836—President may prescribe rules

Congress created Art. 36 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 120 (1950). Art. 36 originally was codified at 50 U.S.C. § 611 (1952). In 1956, as shown below, Congress directed that Art. 36 be re-codified at 10 U.S.C. § 836. Information about amendments to Art. 36 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 50 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 836 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "considers" is substituted for the word "deems". The word "may" is substituted for the word "shall".

In subsection (b), the word "under" is substituted for the words "in pursuance of".

Amendment of Nov. 9, 1979

1. Law amending the Article: Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, § 801(b), 93 Stat. 803, 811 (1979).

2. First codification of the amended Article: 10 U.S.C. § 836 (1976 & Supp. III 1979).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 801.

* * *

(b) Section 836(a) of such title (article 36(a) of the Uniform Code of Military Justice) is amended by striking out " The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals" and inserting in lieu thereof "Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry,".

Amendment of Nov. 5, 1990

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, § 1301(4), 104 Stat. 1485, 1668 (1990)

2. First codification of the amended Article: 10 U.S.C. § 836 (1988 & Supp. II 1990).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1301. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

* * *

(4) Section 836(b) is amended by striking out "and shall be reported to Congress".

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(3), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 843 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:
>
> * * *
>
> (3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—
>
> (A) in subsection (a), by inserting ", except as provided in chapter 47A of this title," after "but which may not"; and
>
> (B) in subsection (b), by inserting before the period at the end ", except insofar as applicable to military commissions established under chapter 47A of this title".

Art. 37, 10 U.S.C. § 837—Command influence

Congress created Art. 37 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 120 (1950). Art. 37 originally was codified at 50 U.S.C. § 612 (1952). In 1956, as shown below, Congress directed that Art. 37 be re-codified at 10 U.S.C. § 837. Information about amendments to Art. 37 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 50 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 837 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(13), 82 Stat. 1335, 1338 (1968).

2. First codification of the amended Article: 10 U.S.C. § 837 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (13) Sectiou 837 (article 37) is amended—
>
> (A) by inserting "(a)"' at the beginning of the first sentence thereof;
>
> (B) by striking out "law officer" in the first sentence and inserting in lieu thereof "military judge";
>
> (C) by adding at the end thereof the following new sentence: "The foregoing provisions of the subsection shall not apply with respect to
>
> (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command m the substantive and procedural aspects of courts-martial, or
>
> (2) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.";
>
> (D) by adding after subsection(a) (as designated by paragraph (1) hereof) a new subsection as follows:
>
> "(b) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced, in grade, or in determining the assignment or transfer of a member of the armed forces or in determining whether a member of the armed forces should be retained on active duty, no person subject to this chapter may, in preparing any such report (1) consider or evaluate the performance of duty of any such member as a member of a court-martial, or (2) give a less favorable rating or evaluation of any member of the armed forces because of the zeal with which such member, as counsel, represented any accused before a court-martial."

Amendment of Dec. 20, 2019

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 532(a), 133 Stat. 1198, 1359 (2019).

2. First codification of the amended Article: 10 U.S.C. § 837 (Supp. I 2019).

3. Effective date of amendment: December 20, 2019. *See* Pub. L. No. 116-92, § 532(c), 133 Stat. at 1359 ("The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to violations of section 837 of title 10, United States Code (article 37 of the Uniform Code of Military Justice), committed on or after such date.").

4. Text of the amendment:

SEC. 532. COMMAND INFLUENCE.

(a) IN GENERAL.—Section 837 of title 10, United States Code (article 37 of the Uniform Code of Military Justice), is amended—

(1) by striking "Unlawfully influencing action of court" and inserting "Command influence";

(2) by amending subsection (a) to read as follows:

"(a)(1) No court-martial convening authority, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding.

"(2) No court-martial convening authority, nor any other commanding officer, may deter or attempt to deter a potential witness from participating in the investigatory process or testifying at a court-martial. The denial of a request to travel at government expense or refusal to make a witness available shall not by itself constitute unlawful command influence.

"(3) No person subject to this chapter may attempt to coerce or, by any unauthorized means, attempt to influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority or preliminary hearing officer with respect to such acts taken pursuant to this chapter as prescribed by the President.

"(4) Conduct that does not constitute a violation of paragraphs (1) through (3) may include, for example—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing persons on the substantive and procedural aspects of courts-martial;

"(B) statements regarding criminal activity or a particular criminal offense that do not advocate a particular disposition, or a particular court-martial finding or sentence, or do not relate to a particular accused; or

"(C) statements and instructions given in open court by the military judge or counsel.

"(5)(A) Notwithstanding paragraphs (1) through (3), but subject to subparagraph (B)—

"(i) a superior convening authority or officer may generally discuss matters to consider regarding the disposition of alleged violations of this chapter with a subordinate convening authority or officer; and

"(ii) a subordinate convening authority or officer may seek advice from a superior convening authority or officer regarding the disposition of an alleged offense under this chapter.

"(B) No superior convening authority or officer may direct a subordinate convening authority or officer to make a particular disposition in a specific case or otherwise substitute

the discretion of such authority or such officer for that of the subordinate convening authority or officer.";

(3) in subsection (b)—

(A) by striking "advanced, in grade" and inserting "advanced in grade"; and

(B) by striking "accused before a court-martial" and inserting "person in a court-martial proceeding"; and

(4) by adding at the end the following new subsections:

"(c) No finding or sentence of a court-martial may be held incorrect on the ground of a violation of this section unless the violation materially prejudices the substantial rights of the accused.

"(d)(1) A superior convening authority or commanding officer may withhold the authority of a subordinate convening authority or officer to dispose of offenses in individual cases, types of cases, or generally.

"(2) Except as provided in paragraph (1) or as otherwise authorized by this chapter, a superior convening authority or commanding officer may not limit the discretion of a subordinate convening authority or officer to act with respect to a case for which the subordinate convening authority or officer has authority to dispose of the offenses.".

Art. 38, 10 U.S.C. § 838—Duties of trial counsel and defense counsel

Congress created Art. 38 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). Art. 38 originally was codified at 50 U.S.C. § 613 (1952). In 1956, as shown below, Congress directed that Art. 38 be re-codified at 10 U.S.C. § 838. Information about amendments to Art. 38 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 50 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 838 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (b), the word "has" is substituted for the words "shall have". The word "under" is substituted for the words "pursuant to". The word "duly" is omitted as surplusage. The words "detailed" and "who were detailed" are substituted for the word

"appointed", since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (c), the word "considers" is substituted for the words "may deem".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(14), 82 Stat. 1335, 1338 (1968).

2. First codification of the amended Article: 10 U.S.C. § 838 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(14) Section 838(b) (article 38(b)) is amended by striking out the words "president of the court" in the last sentence and inserting the words "military judge or by the president of a court-martial without a military judge" in place thereof.

Amendment of Nov. 20, 1981

1. Law amending the Article: Military Justice Amendments of 1981, Pub. L. No. 97-81, § 4(b), 95 Stat. 1085, 1088 (1981)

2. First codification of the amended Article: 10 U.S.C. § 838 (1976 & Supp. V 1981).

3. Effective date of the amendment: January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1089 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act."); *Id.* § 7(b)(4), 95 Stat. at 1090 ("The amendment made by section 4(b) shall apply to trials by courts-martial in which all charges are referred to trial on or after the effective date of such amendment.").

4. Text of the amendment:

INDIVIDUAL MILITARY COUNSEL

Sec. 4.

* * *

(b) Subsection (b) of section 838 (article 38(b)) is amended to read as follows:

"(b)(1) The accused has the right to be represented in his defense before a general or special court-martial or at an investigation under section 832 of this title (article 32) as provided in this subsection.

"(2) The accused may be represented by civilian counsel if provided by him.

"(3) The accused may be represented—,

"(A) by military counsel detailed under section 827 of this title (article 27); or

"(B) by military counsel of his own selection if that counsel is reasonably available (as determined under regulations prescribed under paragraph (7)).

"(4) If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph (3) shall act as associate counsel unless excused at the request of the accused.

"(5) Except as provided under paragraph (6), if the accused is represented by military counsel of his own selection under paragraph (3)(B), any military counsel detailed under paragraph (3)(A) shall be excused.

"(6) The accused is not entitled to be represented by more than one military counsel. However, a convening authority, in his sole discretion—,

"(A) may detail additional military counsel as assistant defense counsel; and

"(B) if the accused is represented by military counsel of his own selection under paragraph (3)(B), may approve a request from the accused that military counsel detailed under paragraph (3)(A) act as associate defense counsel.

"(7) The Secretary concerned shall, by regulation, define 'reasonably available' for the purpose of paragraph (3)(B) and establish procedures for determining whether the military counsel selected by an accused under that paragraph is reasonably available. To the maximum extent practicable, such regulations shall establish uniform policies among the armed forces while recognizing the differences in the circumstances and needs of the various armed forces. The Secretary concerned shall submit copies of regulations prescribed under this paragraph to the Committees on Armed Services of the Senate and House of Representatives.".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 3(e), 97 Stat. 1393, 1394 (1983).

2. First codification of the amended Article: 10 U.S.C. § 838 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(2), 97 Stat. at 1407 ("The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.").

4. Text of the amendment:

MATTERS RELATING TO THE MILITARY JUDGE, COUNSEL, AND MEMBERS OF THE COURT-MARTIAL

Sec. 3.

* * *

(e)(1) Section 838(b)(6) (article 38(b)(6)) is amended by striking out "a convening authority" and inserting in lieu thereof "the person authorized under regulations prescribed under section 827 of this title (article 27) to detail counsel".

(2) Paragraph (7) of section 838(b) (article 38(b)(7)) is amended by inserting after the first sentence the following new sentence:

"Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the armed force of which the accused is a member.".

(3) Section 838(c) (article 38(c)) is amended to read as follows:

"(c) In any court-martial proceeding resulting in a conviction, the defense counsel—,

"(1) may forward for attachment to the record of proceedings a brief of such matters as he determines should be considered in behalf of the accused on review (including any objection to the contents of the record which he considers appropriate);

"(2) may assist the accused in the submission of any matter under section 860 of this title (article 60); and

"(3) may take other action authorized by this chapter.".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1502(a)(1), 110 Stat. 186, 502 (1996).

2. First codification of the amended Article: 10 U.S.C. § 838 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Sections 503(b)(5), 520a(d), 526(d)(1), 619a(h)(2), 806a(b), 838(b)(7), 946(c)(1)(A), 1098(b)(2), 2313(b)(4), 2361(c)(1), 2371(h), 2391(c), 2430(b), 2432(b)(3)(B), 2432(c)(2), 2432(h)(1), 2667(d)(3), 2672a(b), 2687(b)(1), 4342(g), 7307(b)(1)(A), and 9342(g) are amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

Amendment of Oct. 5, 1999

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), § 1067(1), 113 Stat. 512, 774 (1999).

2. First codification of the amended Article: 10 U.S.C. § 838 (Supp. V 1999).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 1067. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON NATIONAL SECURITY OF THE HOUSE OF REPRESENTATIVES TO COMMITTEE ON ARMED SERVICES.
>
> The following provisions of law are amended by striking "Committee on National Security" each place it appears and inserting "Committee on Armed Services':
>
> * * *
>
> 10 USCA § 838
>
> * * *
>
> (1) Title 10, United States Code.

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(c)(3)(C), 127 Stat. 672, 957 (2013).

2. First codification of the amended Article: 10 U.S.C. § 838 (Supp. I 2013).

3. Effective date of amendment: December 26, 2014. *See* Pub. L. No. 113-66, § 1702(d)(1), 127 Stat. at 957 ("The amendments made by subsections (a) and (c)(3) shall take effect one ye,ar after the date of the enactment of this Act and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.").

4. Text of the amendment:

> SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (c) CONFORMING AMENDMENTS.—
>
> * * *
>
> (3) REFERENCES TO ARTICLE 32 INVESTIGATION.—
>
> * * *

(C) Section 838(b)(1) of such title (article 38(b)(1) of the Uniform Code of Military Justice) is amended by striking "an investigation under section 832" and inserting "a preliminary hearing under section 832".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5221, 130 Stat. 2000, 2909 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 838 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5221. DUTIES OF ASSISTANT DEFENSE COUNSEL.

Section 838(e) of title 10, United States Code (article 38(e) of the Uniform Code of Military Justice), is amended by striking ", under the direction" and all that follows through "(article 27),".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(c), 131 Stat. 1283, 1384 (2017).

2. First codification of the amended Article: 10 U.S.C. § 838 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).")

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

* * *

(c) DEFENSE COUNSEL ASSISTANCE IN POST-TRIAL MATTERS FOR ACCUSED CONVICTED BY COURTMARTIAL.—Section 838(c)(2) of title 10, United States Code

(article 38(c)(2) of the Uniform Code of Military Justice), is amended by striking "section 860 of this title (article 60)" and inserting "section 860, 860a, or 860b of this title (article 60, 60a, or 60b)".

Art. 39, 10 U.S.C. § 839—Sessions

Congress created Art. 39 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). Art. 39 originally was codified at 50 U.S.C. § 614 (1952). In 1956, as shown below, Congress directed that Art. 39 be re-codified at 10 U.S.C. § 839. Information about amendments to Art. 39 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 51 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 839 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "When" is substituted for the word "Whenever". The words "deliberates or votes" are substituted for the words "is to deliberate or vote". The word "may" is substituted for the word "shall". The word "shall" is inserted before the words "be in the presence" for clarity.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(15), 82 Stat. 1335, 1338 (1968).

2. First codification of the amended Article: 10 U.S.C. § 839 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *

(15) Section 839 (article 39) is amended to read as follows:

"§ 839. Art. 39. Sessions

"(a) At any time after the service of charges which have l:)een referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to section 835 of this title (article 35), call the court into session without the presence of the members for the purpose of—

"(1) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

"(2) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members of the court;

"(3) if permitted by regulations of the Secretary concerned, holding the arraignment and receiving the pleas of the accused; and

"(4) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 836 of this title (article 36) and which does not require the presence of the members of the court. These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

"(b) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and, in cases in which a military judge has been detailed to the court, the military judge."

Amendment of Nov. 5, 1990

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, § 541(a), 104 Stat. 1485, 1565 (1990)

2. First codification of the amended Article: 10 U.S.C. § 839 (1988 & Supp. II 1990).

3. Effective date of the amendment: See Pub. L. No. 101-510, § 541(e), 104 Stat. at 1565 ("The amendments made by subsections (a) through (d) shall apply only to a court-martial convened on or after the date of the enactment of this Act [Nov. 5, 1990].")

4. Text of the amendment:

SEC. 541. CLARIFICATION OF CERTAIN PROVISIONS IN UNIFORM CODE OF MILITARY JUSTICE

(a) PRETRIAL SESSIONS INVOLVING MILITARY JUDGE ACTING ALONE.—Section 839(a) of title 10, United States Code (article 39(a) of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: "These proceedings may be conducted notwithstanding the number of members of the court and without regard to section 829 of this title (article 29).".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 556, 119 Stat. 3136, 3266 (2006).

2. First codification of the amended Article: 10 U.S.C. § 839 (Supp. V 2005).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 556. USE OF TELECONFERENCING IN ADMINISTRATIVE SESSIONS OF COURTS-MARTIAL.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by designating the matter following paragraph (4) of subsection (a) as subsection (b); and

(3) in subsection (b), as so redesignated—

(A) by striking "These proceedings shall be conducted" and inserting "Proceedings under subsection (a) shall be conducted"; and

(B) by adding at the end the following new sentence: "If authorized by regulations of the Secretary concerned, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).".

Amendment of Oct. 28, 2009

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-84, § 1803(a)(2), 123 Stat. 2190, 2612 (2009).

2. First codification of the amended Article: 10 U.S.C. § 839 (Supp. III 2009).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1803. CONFORMING AMENDMENTS.

(a) UNIFORM CODE OF MILITARY JUSTICE.—

***

(2) CONSTRUCTION OF MILITARY COMMISSIONS WITH COURTS-MARTIAL.—Section 839 of such title (article 39 of the Uniform Code of Military Justice) is amended by adding at the end the following new subsection:

"(d) The findings, holdings, interpretations, and other precedents of military commissions under chapter 47A of this title--

"(1) may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial under this chapter; and

"(2) may not form the basis of any holding, decision, or other determination of a court-martial.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5222, 130 Stat. 2000, 2909 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 839 (Supp. IV 2016).

3. Effective date of the amendment: In general, the amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] . . . 39(a)(4) . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id.* § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5222. SESSIONS.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) by striking "if permitted by regulations of the Secretary concerned,"; and

(ii) by striking "and" at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4) conducting a sentencing proceeding and sentencing the accused in non-capital cases unless the accused requests sentencing by members under section 825 of this title (article 25); and "; and

(2) in the second sentence of subsection (c), by striking ", in cases in which a military judge has been detailed to the court,".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(D), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 839 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.
>
> * * *
>
> (c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—
>
> (1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:
>
> * * *
>
> (D) Subsection (a)(4) of section 839 (article 39), as added by section 5222(1) of the Military Justice Act of 2016 (130 Stat. 2909), is amended by striking "in non-capital cases unless the accused requests sentencing by members under section 825 of this title (article 25)" and inserting "under section 853(b)(1) of this title (article 53(b)(1))".

Art. 40, 10 U.S.C. § 840—Continuances

Congress created the original version of Art. 40 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). This version of Art. 40 was codified at 50 U.S.C. § 615 (1952). In 1956, as shown below, Congress directed that Art. 40 be re-codified at 10 U.S.C. § 840. Information about amendments to Art. 40 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 51 (1956).

2. First codification of the amended Article: 10 U.S.C. § 840 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(16), 82 Stat. 1339

2. First codification of the amended Article: 10 U.S.C. § 840 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (16) Section 840 (article 40) is amended to read as follows:
>
> "§ 840. Art. 40. Continuances
>
> "The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5223, 130 Stat. 2000, 2909 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 840 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5223. TECHNICAL AMENDMENT RELATING TO CONTINUANCES.

Section 840 of title 10, United States Code (article 40 of the Uniform Code of Military Justice), is amended by striking "court-martial without a military judge" and inserting "summary court-martial".

Art. 41, 10 U.S.C. § 841—Challenges

Congress created the original version of Art. 41 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). This version of Art. 41 was codified at 50 U.S.C. § 616 (1952). In 1956, as shown below, Congress directed that Art. 41 be re-codified at 10 U.S.C. § 841. Information about amendments to Art. 41 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 51 (1956).

2. First codification of the amended Article: 10 U.S.C. § 841 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "may" is substituted for the word "shall" before the words "not receive".

In subsection (b), the word "the" is inserted before the word "trial". The word "is" is substituted for the words "shall be". The word "may" is substituted for the word "shall".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(17), 82 Stat. 1339

2. First codification of the amended Article: 10 U.S.C. § 841 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(17) Section 841 (article 41) is amended—

(A) by amending the first sentence of subsection (a) to read as follows: "The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court.";

(B) by striking out the word "court" in the second sentence of subsection (a) and inserting the words "military judge, or, if none, the court," in place thereof; and

(C) by striking out "law officer" in subsection (b) and inserting in lieu thereof "military judge".

Amendment of Nov. 5, 1990

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, § 541(b)-(d), 104 Stat. 1485, 1565 (1990).

2. First codification of the amended Article: 10 U.S.C. § 841 (1988 & Supp. II 1990).

3. Effective date of the amendment: See Pub. L. No. 101-510, § 541(e), 104 Stat. at 1565 ("The amendments made by subsections (a) through (d) shall apply only to a court-martial convened on or after the date of the enactment of this Act [Nov. 5, 1990].").

4. Text of the amendment:

SEC. 541. CLARIFICATION OF CERTAIN PROVISIONS IN UNIFORM CODE OF MILITARY JUSTICE

* * *

(b) CHALLENGES TO MEMBERS OF COURTS-MARTIAL FOR CAUSE WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (a) of section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) If exercise of a challenge for cause reduces the court below the minimum number of members required by section 816 of this title (article 16), all parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.".

(c) PEREMPTORY CHALLENGES WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (b) of such section (article) is amended to read as follows:

"(b)(1) Each accused and the trial counsel are entitled initially to one peremptory challenge of members of the court. The military judge may not be challenged except for cause.

"(2) If exercise of a peremptory challenge reduces the court below the minimum number of members required by section 816 of this title (article 16), the parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any

remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.".

(d) ADDITIONAL PEREMPTORY CHALLENGES WHEN NEW MEMBERS DETAILED.—Such section (article) is further amended by adding at the end the following new subsection:

"(c) Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.".

Amendment of Jan. 7, 2011

1. Law amending the Article: Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1075(b)(13), 124 Stat. 4137, 4369 (2011).

2. First codification of the amended Article: 10 U.S.C. § 841 (Supp. IV 2010).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1075. TECHNICAL AND CLERICAL AMENDMENTS.

* * *

(b) TITLE 10, UNITED STATES CODE.--Title 10, United States Code, is amended as follows:

* * *

(13) Section 841(c) is amended by striking "trail counsel" and inserting "trial counsel".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5224, 130 Stat. 2000, 2909 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 841 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5224. CONFORMING AMENDMENTS RELATING TO CHALLENGES.

Section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(1), by striking ", or, if none, the court," in the second sentence;

(2) in subsection (a)(2), by striking "minimum" in the first sentence; and

(3) in subsection (b)(2), by striking "minimum".

Art. 42, 10 U.S.C. § 842—Oaths

Congress created the original version of Art. 42 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). This version of Art. 42 was codified at 50 U.S.C. § 617 (1952). In 1956, as shown below, Congress directed that Art. 42 be re-codified at 10 U.S.C. § 842. Information about amendments to Art. 42 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 51 (1956).

2. First codification of the amended Article: 10 U.S.C. § 841 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "all" and the word "the" before the words "members", "trial", "defense", and "reporter" are omitted as surplusage.
>
> In subsections (a) and (b), the words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of Title 1.
>
> In subsection (b), the words "Each witness" are substituted for the words "All witnesses".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(18), 82 Stat. 1335, 1339 (1968).

2. First codification of the amended Article: 10 U.S.C. § 842 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (18) Section 842(a) (article 42(a)) is amended to read as follows:
>
> "(a) Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary concerned. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant defense counsel may be taken at any time by any judge advocate, law specialist, or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate, law specialist, or other person is detailed to that duty."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 2(e), 3(f), 97 Stat. 1393, 1395.

2. First codification of the amended Article: 10 U.S.C. § 842 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(2), 97 Stat. at 1407 ("The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.").

4. Text of the amendment:

> Sec. 2.
>
> * * *
>
> (e) Section 842(a) (article 42(a)) is amended by striking out ", law specialist," both places it appears in the third sentence.
>
> * * *
>
> Sec. 3.
>
> * * *

(f) Section 842(a) (article 42(a)) is amended by striking out "assistant defense counsel" in the first and third sentences and inserting in lieu thereof "assistant or associate defense counsel"

Art. 43, 10 U.S.C. § 843—Statute of Limitations

Congress created the original version of Art. 43 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 121 (1950). This version of Art. 43 was codified at 50 U.S.C. § 618 (1952). In 1956, as shown below, Congress directed that Art. 43 be re-codified at 10 U.S.C. § 843. Information about amendments to Art. 43 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of Aug. 10, 1956, ch. 1041, 70A Stat. 51

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b), the word "inclusive" is omitted as surplusage.
>
> In subsections (b) and (c), the words "is not" are substituted for the words "shall not be".
>
> In subsection (e), the words "For an" are substituted for the words "In the case of any". The word "is" is substituted for the words "shall be". The words "Secretary concerned" are substituted for the words "Secretary of the Department".
>
> In subsection (f), the word "is" is substituted for the words "shall be".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, §§ 805(a), (b), 100 Stat. 3816, 3906 (1986).

2. First codification of the amended Article: 10 U.S.C. § 843 (1982 & Supp. IV 1986).

3. Effective date of the amendment: *See* Pub. L. No. 99-661, § 805(c), Nov. 14, 1986, 100 Stat. 3908 ("The amendments made by this section shall apply to an offense committed on or after the date of the enactment of this Act.").

4. Text of the amendment:

> SEC. 805. STATUTE OF LIMITATIONS

(a) REVISION OF STATUTES OF LIMITATION.—Subsections (a), (b), and (c) of section 843 (article 43) are amended to read as follows:

"(a) A person charged with absence without leave or missing movement in time of war, or with any offense punishable by death, may be tried and punished at any time without limitation.

"(b)(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

"(2) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

"(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).".

(b) TIME FOR REINSTATEMENT OF CHARGES. —Such section is further amended by adding at the end the following new subsection:

"(g)(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations —

"(A) has expired; or

"(B) will expire within 180 days after the date of dismissal of the charges and specifications, trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

"(2) The conditions referred to in paragraph (1) are that the new charges and specifications must —

"(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

"(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications)."

Amendment of Nov. 24, 2003

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 551, 117 Stat. 1392, 1481 (2003).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. III 2003).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 551. EXTENDED LIMITATION PERIOD FOR PROSECUTION OF CHILD ABUSE CASES IN COURTS-MARTIAL.

Subsection (b) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received before the child attains the age of 25 years by an officer exercising summary court-martial jurisdiction with respect to that person.

"(B) In subparagraph (A), the term 'child abuse offense¢ =ewpt' means an act that involves sexual or physical abuse of a person who has not attained the age of 16 years and constitutes any of the following offenses:

"(i) Rape or carnal knowledge in violation of section 920 of this title (article 120).

"(ii) Maiming in violation of section 924 of this title (article 124).

"(iii) Sodomy in violation of section 925 of this title (article 126).

"(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

"(v) Indecent assault, assault with intent to commit murder, voluntary manslaughter, rape, or sodomy, or indecent acts or liberties with a child in violation of section 934 of this title (article 134).".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, §§ 552(e), 553, 119 Stat. 3136, 3263 (2006).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. V 2005).

3. Effective date of the amendment: The effective date for the amendment in § 552 is October 1, 2007. *See* Pub. L. No. 109-163, § 552(f), 119 Stat. at 3263 ("The amendments made by this section shall take effect on October 1, 2007."). The effective date for the amendment in § 553 is not specified.

4. Text of the amendment:

SEC. 552. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.

* * *

(e) STATUTE OF LIMITATIONS.—Section 843(a) of title 10, United States Code (article 843(a) of the Uniform Code of Military Justice), as amended by section 553(a), is amended by striking "or rape," and inserting ", rape, or rape of a child,".

* * *

SEC. 553. EXTENSION OF STATUTE OF LIMITATIONS FOR MURDER, RAPE, AND CHILD ABUSE OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) NO LIMITATION FOR MURDER OR RAPE.—Subsection (a) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking "or with any offense punishable by death" and inserting "with murder or rape, or with any other offense punishable by death".

(b) SPECIAL RULES FOR CHILD ABUSE OFFENSES.—Subsection (b)(2) of such section (article) is amended—

(1) in subparagraph (A), by striking "before the child attains the age of 25 years" and inserting "during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period,";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "sexual or physical";

(B) in clause (i), by striking "Rape or carnal knowledge" and inserting "Any offense"; and

(C) in clause (v), by striking "Indecent assault," and inserting "Kidnaping; indecent assault;"; and

(3) by adding at the end the following new subparagraph:

"(C) In subparagraph (A), the term 'child abuse offense' includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117, or under section 1591, of title 18.".

Amendment of Oct. 17, 2006

1. Law amending the Article: John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 1071(a)(4), 120 Stat. 2083 (2006).

2. First codification of the amended Article: 10 U.S.C. § 843 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1071. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(4) Section 843(b)(2) is amended—

(A) in subparagraph (B)(iii), by striking "article 126" and inserting "article 125"; and

(B) in subparagraph (C), by striking "under chapter 110 or 117, or under section 1591, of title 18" and inserting "under chapter 110 or 117 of title 18 or under section 1591 of that title".

Amendment of Jan. 7, 2011

1. Law amending the Article: Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 1075(b)(14), 124 Stat. 4137, 4369 (2011).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. IV 2010).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1075. TECHNICAL AND CLERICAL AMENDMENTS.
>
> * * *
>
> (b) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (14) Section 843(b)(2)(B)(v) is amended by striking "Kidnaping; indecent assault;" and inserting "Kidnaping, indecent assault,".

Amendment of Dec. 31, 2011

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 541(d)(1), 125 Stat. 1298, 1410 (2011).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. V 2011).

3. Effective date of the amendment: May 1, 2012. *See* Pub. L. No. 112-81, § 541(f), 125 Stat. at 1411 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed on or after such effective date.").

4. Text of the amendment:

> SEC. 541. REFORM OF OFFENSES RELATING TO RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER THE UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (d) Conforming Amendments.—Chapter 47 of such title (the Uniform Code of Military Justice) is further amended as follows:
>
> (1) Statute of limitations.—Subparagraph (B) of section 843(b)(2) (article 43(b)(2)) is amended—
>
> (A) in clause (i), by striking "section 920 of this title (article 120)" and inserting "section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c)"; and
>
> (B) in clause (v)—
>
> (i) by striking "indecent assault"; and

(ii) by striking "or liberties with a child".

Amendment of Jan. 2, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 1076(f)(8), 126 Stat. 1632, 1952 (2013).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1076. TECHNICAL AND CLERICAL AMENDMENTS.

* * *

(f) Other Miscellaneous Amendments to Title 10.—Title 10, United States Code, is amended as follows:

* * *

(8) Section 843(b)(2)(B)(v) (article 43 of the Uniform Code of Military Justice) is amended by striking "Kidnaping,,", and inserting "Kidnaping,"

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, §§ 1703(a) & (b), 127 Stat. 672, 958 (2013).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. I 2013).

3. Effective date of amendment: Dec. 26, 2013. *See* Pub. L. No. 113-66, § 1703(c), 127 Stat. at 958 ("The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to an offense covered by section 920(b) or 920b(b) of title 10, United States Code (article 120(b) or 120b(b) of the Uniform Code of Military Justice), that is committed on or after that date.").

4. Text of the amendment:

SEC. 1703. ELIMINATION OF FIVE-YEAR STATUTE OF LIMITATIONS ON TRIAL BY COURT-MARTIAL FOR ADDITIONAL OFFENSES INVOLVING SEX-RELATED CRIMES.

(a) Inclusion of Additional Offenses.—Section 843(a) of title 10, United States Code (article 43(a) of the Uniform Code of Military Justice), is amended by striking "rape, or rape of a child " and inserting "rape or sexual assault, or rape or sexual assault of a child ".

(b) Conforming Amendment.—Section 843(b)(2)(B)(i) of title 10, United States Code (article 43(b)(2)(B)(i) of the Uniform Code of Military Justice), is amended by inserting before the period at the end the following: ", unless the offense is covered by subsection (a) ".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(d)(2)(A), 128 Stat. 3292, 3364 (2014).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. II 2014).

3. Effective date of the amendment: Not specified

4. Text of the amendment:

> SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.
>
> * * *
>
> (d) Repeal of Offense of Consensual Sodomy Under the Uniform Code of
>
> Military Justice.—
>
> * * *
>
> (2) Conforming amendments.—
>
> (A) Article 43.—Section 843(b)(2)(B) of such title (article 43(b)(2)(B) of the Uniform Code of Military Justice) is amended—
>
> (i) in clause (iii), by striking "Sodomy" and inserting "Forcible sodomy"; and
>
> (ii) in clause (v), by striking "sodomy" and inserting "forcible sodomy".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 201, Pub. L. No. 114-328, §§ 5225(a)-(e), Dec. 23, 2016, 130 Stat. 2000, 2909-10 (2016).

2. First codification of the amended Article: 10 U.S.C. § 843 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5225. STATUTE OF LIMITATIONS.

(a) INCREASE IN PERIOD FOR CHILD ABUSE OFFENSES.—Subsection (b)(2)(A) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking "five years" and inserting "ten years".

(b) INCREASE IN PERIOD FOR FRAUDULENT ENLISTMENT OR APPOINTMENT OFFENSES.—Such section (article) is further amended by adding at the end the following new subsection:

"(h) FRAUDULENT ENLISTMENT OR APPOINTMENT.—A person charged with fraudulent enlistment or fraudulent appointment under section 904a(1) of this title (article 104a(1)) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

"(1) In the case of an enlisted member, during the period of the enlistment or five years, whichever provides a longer period.

"(2) In the case of an officer, during the period of the appointment or five years, whichever provides a longer period.".

(c) DNA EVIDENCE.—Such section (article), as amended by subsection (b) of this section, is further amended by adding at the end the following new subsection:

"(i) DNA EVIDENCE.—If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(d) CONFORMING AMENDMENTS.—Subsection (b)(2)(B) of such section (article) is amended by striking clauses (i) through (v) and inserting the following new clauses:

"(i) Any offense in violation of section 920, 920a, 920b, 920c, or 930 of this title (article 120, 120a, 120b, 120c, or 130), unless the offense is covered by subsection (a).

"(ii) Maiming in violation of section 928a of this title (article 128a).

"(iii) Aggravated assault, assault consummated by a battery, or assault with intent to commit specified offenses in violation of section 928 of this title (article 128).

"(iv) Kidnapping in violation of section 925 of this title (article 125).".

(e) SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.—Such section (article) is further amended—

(1) in subsection (a), by inserting "NO LIMITATION FOR CERTAIN OFFENSES.—" after "(a)";

(2) in subsection (b), by inserting "FIVE-YEAR LIMITATION FOR TRIAL BY COURT-MARTIAL.—" after "(b)";

(3) in subsection (c), by inserting "TOLLING FOR ABSENCE WITHOUT LEAVE OR FLIGHT FROM JUSTICE.—" after "(c)";

(4) in subsection (d), by inserting "TOLLING FOR ABSENCE FROM US OR MILITARY JURISDICTION.—" after "(d)";

(5) in subsection (e), by inserting "EXTENSION FOR OFFENSES IN TIME OF WAR DETRIMENTAL TO PROSECUTION OF WAR.—" after "(e)";

(6) in subsection (f), by inserting "EXTENSION FOR OTHER OFFENSES IN TIME OF WAR.—" after "(f) "; and

(7) in subsection (g), by inserting "DEFECTIVE OR INSUFFICIENT CHARGES.—" after "(g)".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(E), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

Sec. 1081. Technical, conforming, and clerical amendments

* * *

(c) Technical corrections related to Uniform Code of Military Justice Reform.

(1) In general. Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(E) Subsection (i) of section 843 (article 43), as added by section 5225(c) of the Military Justice Act of 2016 (130 Stat. 2909), is amended by striking "Dna Evidence.—" and inserting "DNA Evidence.—".

Amendment of Dec. 20, 2019

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 533(a), 133 Stat. 1198, 1361(2019).

2. First codification of the amended Article: 10 U.S.C. § 843 (Supp. I 2019).

3. Effective date of amendment: December 20, 2019. *See* Pub. L. No. 116-92, § 532(c), 133 Stat. at 1359 ("The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to violations of section 837 of title 10, United States Code (article 37 of the Uniform Code of Military Justice), committed on or after such date.").

4. Text of the amendment:

SEC. 533. STATUTE OF LIMITATIONS FOR CERTAIN OFFENSES.

(a) In General.—Section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by inserting "maiming of a child, kidnapping of a child," after "sexual assault of a child,"; and

(2) in subsection (b)(2)(B)—

(A) by striking clauses (ii) and (iv); and

(B) by redesignating clause (iii) as clause (ii).

Art. 44, 10 U.S.C. § 844—Former Jeopardy

Congress created the original version of Art. 44 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 122 (1950). This version of Art. 44 was codified at 50 U.S.C. § 619 (1952). In 1956, as shown below, Congress directed that Art. 44 be re-codified at 10 U.S.C. § 844. Information about amendments to Art. 44 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 52 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 844 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "may" is substituted for the word "shall".
>
> In subsection (b), the word "is" is substituted for the words "shall be held to be".
>
> In subsection (c), the word "after" is substituted for the words "subsequent to". The word "before" is substituted for the words "prior to". The word "is" is substituted for the words "shall be".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5226, 130 Stat. 2000, 2910 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 844 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5226. FORMER JEOPARDY.
>
> Subsection (c) of section 844 of title 10, United States Code (article 44 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(c)(1) A court-martial with a military judge alone is a trial in the sense of this section (article) if, without fault of the accused—
>
> "(A) after introduction of evidence; and
>
> "(B) before announcement of findings under section 853 of this title (article 53); the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.
>
> "(2) A court-martial with a military judge and members is a trial in the sense of this section (article) if, without fault of the accused—
>
> "(A) after the members, having taken an oath as members under section 842 of this title (article 42) and after completion of challenges under section 841 of this title (article 41), are impaneled; and
>
> "(B) before announcement of findings under section 853 of this title (article 53); the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

Art. 45, 10 U.S.C. § 845—Pleas of the accused

Congress created the original version of Art. 45 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 122 (1950). This version of Art. 45 was codified at 50 U.S.C. § 620 (1952). In 1956, as shown below, Congress directed that Art. 45 be re-codified at 10 U.S.C. § 845. Information about amendments to Art. 45 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 52 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 845 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b), the word "may" is substituted for the word "shall".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(19), 82 Stat. 1335, 1339 (1968).

2. First codification of the amended Article: 10 U.S.C. § 845 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> Sec. 2.
>
> * * *
>
> (19) Section 845 (article 45) is amended—
>
> (A) by striking out the words "arraigned before a court-martial" in subsection (a) and inserting the words "after arraignment" in place thereof; and
>
> (B) by amending subsection (b) to read as follows:
>
> "(b) A plea of guilty by the accused may not be received to any charge or specification alleging an offense for which the death penalty may be adjudged. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may, if permitted by regulations of the Secretary concerned, be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5227, 130 Stat. 2000, 2911 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 845 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5227. PLEAS OF THE ACCUSED.

(a) PLEAS OF GUILTY.—Subsection (b) of section 845 of title 10, United States Code (article 45 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking "may be adjudged" and inserting "is mandatory"; and

(2) in the second sentence—

(A) by striking "or by a court-martial without a military judge"; and

(B) by striking ", if permitted by regulations of the Secretary concerned,".

(b) HARMLESS ERROR.—Such section (article) is further amended by adding at the end the following new subsection:

"(c) HARMLESS ERROR.—A variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused.".

(c) SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.—Such section (article) is further amended—

(1) in subsection (a), by inserting "IRREGULAR AND SIMILAR PLEAS.—" after "(a)"; and

(2) in subsection (b), by inserting "PLEAS OF GUILTY.—" after "(b)".

Art. 46, 10 U.S.C. § 846—Opportunity to obtain witnesses and other evidence in trials by court-martial

Congress created the original version of Art. 46 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 122 (1950). This version of Art. 46 was codified at 50 U.S.C. § 621 (1952). In 1956, as shown below, Congress directed that Art. 46 be re-codified at 10 U.S.C. § 846. Information about amendments to Art. 46 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 53 (1956)..

2. First codification of the amended Article: 10 U.S.C. § 846 (Supp IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "Commonwealths" is inserted to reflect the present status of Puerto Rico.

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(6), 119 Stat. 3136, 3441 (2006).

2. First codification of the amended Article: 10 U.S.C. § 846 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (6) The following sections are amended by striking "Territories, Commonwealths, and possessions" each place it appears and inserting "Commonwealths and possessions": sections 846, 3062, 3074, 4747, 4778, 8062, and 9778.

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1704, 127 Stat. 672, 958 (2013).

2. First codification of the amended Article: 10 U.S.C. § 846 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1704. DEFENSE COUNSEL INTERVIEW OF VICTIM OF AN ALLEGED SEX-RELATED OFFENSE IN PRESENCE OF TRIAL COUNSEL, COUNSEL FOR THE VICTIM, OR A SEXUAL ASSAULT VICTIM ADVOCATE.
>
> Section 846 of title 10, United States Code (article 46 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a) OPPORTUNITY TO OBTAIN WITNESSES AND OTHER EVIDENCE." before 'The trial counsel";

(2) by striking "Process issued" and inserting the following:

"(c) PROCESS.—Process issued"; and

(3) by inserting after subsection (a), as designated by paragraph (1), the following new subsection (b):

"(b) DEFENSE COUNSEL INTERVIEW OF VICTIM OF ALLEGED SEX-RELATED OFFENSE.—(1) Upon notice by trial counsel to defense counsel of the name of an alleged victim of an alleged sex-related offense who trial counsel intends to call to testify at a preliminary hearing under section 832 of this title (article 32) or a court-martial under this chapter, defense counsel shall make any request to interview the victim through trial counsel.

"(2) If requested by an alleged victim of an alleged sex-related offense who is subject to a request for interview under paragraph (1), any interview of the victim by defense counsel shall take place only in the presence of trial counsel, a counsel for the victim, or a Sexual Assault Victim Advocate.

"(3) In this subsection, the term 'alleged sex-related offense' means any allegation of—

"(A) a violation of section 920, 920a, 920b, 920c, or 925 of this title (article 120, 120a, 120b, 120c, or 125); or

"(B) an attempt to commit an offense specified in a paragraph (1) as punishable under section 880 of this title (article 80).".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(b), 128 Stat. 3292, 3363 (2014).

2. First codification of the amended Article: 10 U.S.C. § 846 (Supp. II 2014).

*3. Effective date of the amen*dment: None indicated.

4. Text of the amendment:

SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.

* * *

(b) DEFENSE COUNSEL INTERVIEW OF VICTIM OF AN ALLEGED SEX-RELATED OFFENSE.—

(1) REQUESTS TO INTERVIEW VICTIM THROUGH COUNSEL.—Subsection (b)(1) of section 846 of title 10, United States Code (article 46(b) of the Uniform Code of Military

Justice), as amended by section 1704 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 958), is amended by striking "through trial counsel" and inserting "through the Special Victims' Counsel or other counsel for the victim, if applicable".

(2) CORRECTION OF REFERENCES TO TRIAL COUNSEL.—Such section is further amended by striking "trial counsel" each place it appears and inserting "counsel for the Government".

(3) CORRECTION OF REFERENCES TO DEFENSE COUNSEL.—Such section is further amended—

(A) in the heading, by striking "DEFENSE COUNSEL" and inserting "COUNSEL FOR ACCUSED"; and

(B) by striking "defense counsel" each place it appears and inserting "counsel for the accused".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5228(a), 130 Stat. 2000, 2911 (2016).

2. First codification of the amended Article: 10 U.S.C. § 846 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5228. SUBPOENA AND OTHER PROCESS.

(a) AMENDMENTS TO UCMJ ARTICLE.—

(1) IN GENERAL.—Subsection (a) of section 846 of title 10, United States Code (article 46 of the Uniform Code of Military Justice), is amended by striking "The counsel for the Government, the counsel for the accused," and inserting "In a case referred for trial by court-martial, the trial counsel, the defense counsel,".

(2) SUBPOENA AND OTHER PROCESS GENERALLY.—Subsection (b) of such section (article) is amended to read as follows:

"(b) SUBPOENA AND OTHER PROCESS GENERALLY.—Any subpoena or other process issued under this section (article)—

"(1) shall be similar to that which courts of the United States having criminal jurisdiction may issue;

"(2) shall be executed in accordance with regulations prescribed by the President; and

"(3) shall run to any part of the United States and to the Commonwealths and possessions of the United States.".

(3) SUBPOENA AND OTHER PROCESS FOR WITNESSES.—Subsection(c) of such section (article) is amended to read as follows:

"(c) SUBPOENA AND OTHER PROCESS FOR WITNESSES.—A subpoena or other process may be issued to compel a witness to appear and testify—

"(1) before a court-martial, military commission, or court of inquiry;

"(2) at a deposition under section 849 of this title (article 49); or

"(3) as otherwise authorized under this chapter.".

(4) OTHER MATTERS.—Such section (article) is further amended by adding at the end the following new subsections:

"(d) SUBPOENA AND OTHER PROCESS FOR EVIDENCE.—

"(1) IN GENERAL.—A subpoena or other process may be issued to compel the production of evidence—

"(A) for a court-martial, military commission, or court of inquiry;

"(B) for a deposition under section 849 of this title (article 49);

"(C) for an investigation of an offense under this chapter; or

"(D) as otherwise authorized under this chapter.

"(2) INVESTIGATIVE SUBPOENA.—An investigative subpoena under paragraph (1)(C) may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the Government to issue such a subpoena or a military judge issues such a subpoena pursuant to section 830a of this title (article 30a).

"(3) WARRANT OR ORDER FOR WIRE OR ELECTRONIC COMMUNICATIONS.—With respect to an investigation of an offense under this chapter, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the United States under chapter 121 of title 18, subject to such limitations as the President may prescribe by regulation.

"(e) REQUEST FOR RELIEF FROM SUBPOENA OR OTHER PROCESS.—If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military judge detailed in accordance with section 826 or 830a of this title (article 26 or 30a) shall review the request and shall—

"(1) order that the subpoena or other process be modified or withdrawn, as appropriate; or

"(2) order the person to comply with the subpoena or other process.".

(5) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

§ 846. Art. 46. Opportunity to obtain witnesses and other evidence in trials by court-martial".

Art. 47, 10 U.S.C. § 847—Refusal of person not subject to chapter to appear, testify, or produce evidence

Congress created Art. 47 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 123 (1950). It was originally codified at 50 U.S.C. § 622 (1952). In 1956, as shown below, Congress directed that Art. 47 be re-codified at 10 U.S.C. § 847. Information about amendments to Art. 47 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 53 (1956).

2. First codification of the amended Article: 10 U.S.C. § 847 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "Any" is substituted for the word "Every". The word "is" is substituted for the words "shall be deemed".

In subsection (b), the words "named in subsection (a)" are substituted for the words "denounced by this article". The words "Territories, Commonwealths, or"are substituted for the word "Territorial". The words "not more than" are substituted for the words "a period not exceeding".

In subsection (c), the words "It shall be the duty of * * * to" are omitted as surplusage. The words "United States Attorney" are substituted for the words "United States district attorney", to conform to the terminology of section 501 of title 28. The word "shall" is inserted after the word "jurisdiction".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1111, 110 Stat. 186, 461 (1996).

2. First codification of the amended Article: 10 U.S.C. § 847 (Supp. II 1996).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1111. REFUSAL TO TESTIFY BEFORE COURT-MARTIAL.
>
> Section 847(b) (article 47(b)) is amended—
>
> (1) in the first sentence, by inserting "indictment or" after "shall be tried on"; and
>
> (2) in the second sentence, by striking out "shall be" and all that follows and inserting in lieu thereof "shall be fined or imprisoned, or both, at the court's discretion.".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(5), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 847 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (5) The following sections are amended by striking "Territories, Commonwealths, or possessions" each place it appears and inserting "Commonwealths or possessions": sections 847, [and other listed sections]* * *.

Amendment of Dec. 31, 2011

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 542(a), (b), 125 Stat. 1298, 1411 (2011).

2. First codification of the amended Article: 10 U.S.C. § 847 (Supp. V 2011).

3. Effective date of the amendment: The effective date of the amendments made by Pub. L. No. 112-81, § 542(a) is Dec. 31, 2011. *See* Pub. L. No. 112-81, § 542(c), 125 Stat. at 1411 ("The amendments made by subsection (a) shall apply with respect to subpoenas issued after the date of

the enactment of this Act."). The effective date of the amendments made by Pub. L. No. 112-81, § 542(b) is not specified.

4. Text of the amendment:

> SEC. 542. AUTHORITY TO COMPEL PRODUCTION OF DOCUMENTARY EVIDENCE.
>
> (a) EFFECT OF REFUSAL TO APPEAR OR TESTIFY.--Section 847 of title 10, United States Code (article 47 of the Uniform
>
> Code of Military Justice), is amended--
>
> (1) in subsection (a)--
>
> (A) in paragraph (1), by striking "board;" and inserting "board, or has been duly issued a subpoena duces tecum for an investigation pursuant to section 832(b) of this title (article 32(b));"; and
>
> (B) in paragraph (2)--
>
> (i) by striking "duly paid or tendered the fees and mileage of a witness" and inserting "provided a means for reimbursement from the Government for fees and mileage"; and
>
> (ii) by inserting before the semicolon the following: "or, in the case of extraordinary hardship, is advanced such fees and mileage"; and
>
> (2) in subsection (c), by striking "or board" and inserting "board, or convening authority".
>
> (b) TECHNICAL AMENDMENTS.--Subsection (a) of such section is further amended by striking "subpenaed" both places it appears and inserting "subpoenaed".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(c)(3)(D), 127 Stat. 672, 958 (2013).

2. First codification of the amended Article: 10 U.S.C. § 847 (Supp. I 2013).

3. Effective date of the amendment: December 26. 2014. *See* Pub. L. No. 113-66, § 1702(d)(1), 127 Stat. at 958 ("The amendments made by subsections (a) and (c)(3) shall take effect one year after the date of the enactment of this Act and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.").

4. Text of the amendment:

> SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (c) CONFORMING AMENDMENTS.—

* * *

(3) REFERENCES TO ARTICLE 32 INVESTIGATION.

* * *

(D) Section 847(a)(1) of such title (article 47(a)(1) of the Uniform Code of Military Justice) is amended by striking "an investigation pursuant to section 832(b) of this title (article 32(b))" and inserting "a preliminary hearing pursuant to section 832 of this title (article 32)".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5229, 130 Stat. 2000, 2913 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 847 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5229. REFUSAL OF PERSON NOT SUBJECT TO UCMJ TO APPEAR, TESTIFY, OR PRODUCE EVIDENCE.

(a) IN GENERAL.—Subsection (a) of section 847 of title 10, United States Code (article 47 of the Uniform Code of Military Justice), is amended to read as follows:

"(a) IN GENERAL.—(1) Any person described in paragraph (2) who—

"(A) willfully neglects or refuses to appear; or

"(B) willfully refuses to qualify as a witness or to testify or to produce any evidence which that person is required to produce;

is guilty of an offense against the United States.

"(2) The persons referred to in paragraph (1) are the following:

"(A) Any person not subject to this chapter who—

"(i) is issued a subpoena or other process described in subsection (c) of section 846 of this title (article 46); and

"(ii) is provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage.

"(B) Any person not subject to this chapter who is issued a subpoena or other process described in subsection (d) of section 846 of this title (article 46).".

(b) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

§ 847. Art. 47. Refusal of person not subject to chapter to appear, testify, or produce evidence".

Art. 48, 10 U.S.C § 848—Contempt

Congress created Art. 48 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 123 (1950). Art. 48 originally was codified at 50 U.S.C. § 623 (1952). In 1956, as shown below, Congress directed that Art. 48 be re-codified at 10 U.S.C. § 848. Information about amendments to Art. 48 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 53 (1956).

2. First codification of the amended Article: 10 U.S.C. § 848 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "may" is substituted for the word "shall".

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 848 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

* * *

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Amendment of Jan. 7, 2011

1. Law amending the Article: Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, § 542(a), 124 Stat. 4137, 4218 (2011).

2. First codification of the amended Article: 10 U.S.C. § 848 (2012).

3. Effective date of the amendment: January 7, 2011. *See* Pub. L. No. 111-383, § 542(b), 124 Stat. at 4218 ("Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to acts of contempt committed after the date of the enactment of this Act.").

4. Text of the amendment:

SEC. 542. ENHANCED AUTHORITY TO PUNISH CONTEMPT IN MILITARY JUSTICE PROCEEDINGS.

(a) IN GENERAL.--Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 848. Art. 48. Contempts

"(a) AUTHORITY TO PUNISH CONTEMPT.--A judge detailed to a court-martial, a court of inquiry, the United States Court of Appeals for the Armed Forces, a military Court of Criminal Appeals, a provost court, or a military commission may punish for contempt any person who--

"(1) uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial, court, or military commission;

"(2) disturbs the proceedings of the court-martial, court, or military commission by any riot or disorder; or

"(3) willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial, court, or military commission.

"(b) PUNISHMENT.--The punishment for contempt under subsection (a) may not exceed confinement for 30 days, a fine of $1,000, or both.

"(c) INAPPLICABILITY TO MILITARY COMMISSIONS UNDER CHAPTER 47A.--This section does not apply to a military commission established under chapter 47A of this title.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5230, 130 Stat. 2000, 2913 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 848 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5230. CONTEMPT.

(a) AUTHORITY TO PUNISH.—Subsection (a) of section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), is amended to read as follows:

"(a) AUTHORITY TO PUNISH.—(1) With respect to any proceeding under this chapter, a judicial officer specified in paragraph (2) may punish for contempt any person who—

"(A) uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding;

"(B) disturbs the proceeding by any riot or disorder; or

"(C) willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

"(2) A judicial officer referred to in paragraph (1) is any of the following:

"(A) Any judge of the Court of Appeals for the Armed Forces and any judge of a Court of Criminal Appeals under section 866 of this title (article 66).

"(B) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter.

"(C) Any military magistrate designated to preside under section 819 of this title (article 19).

"(D) The president of a court of inquiry.".

(b) REVIEW.—Such section (article) is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) REVIEW.—A punishment under this section—

"(1) if imposed by a military judge or military magistrate, may be reviewed by the Court of Criminal Appeals in accordance with the uniform rules of procedure for the Courts of Criminal Appeals under section 866(g) of this title (article 66(g));

"(2) if imposed by a judge of the Court of Appeals for the Armed Forces or a judge of a Court of Criminal Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of section 867 or 867a of this title (article 67 or 67a); and

"(3) if imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with rules prescribed by the President.".

(c) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

§ 848. Art. 48. Contempt".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(F), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 848 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(F) Section 848(c)(1) (article 48(c)(1)), as amended by section 5230 of the Military Justice Act of 2016 (130 Stat. 2913), is further amended by striking "section 866(g) of this title (article 66(g))" and inserting "section 866(h) of this title (article 66(h))".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 538, 135 Stat. 1541, 1698 (2021).

2. First codification of the amended Article: 10 U.S.C. § 844 (Supp. III 2021).

3. Effective date of the amendment: December 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

> SEC. 538. FORMER JEOPARDY.
>
> Section 844(c) of title 10, United States Code (article 44(c) of the Uniform Code of Military Justice), is amended by inserting "or the special trial counsel" after "the convening authority" each place it appears.

Art. 49, 10 U.S.C. § 849—Depositions

Congress created Art. 49 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 123 (1950). Art. 49 originally was codified at 50 U.S.C. § 624 (1952). In 1956, as shown below, Congress directed that Art. 49 be re-codified at 10 U.S.C. § 849. Information about amendments to Art. 49 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 53 (1956).

2. First codification of the amended Article: 10 U.S.C. § 849 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "commissioned" is inserted for clarity.
>
> In subsection (d), the word "Commonwealth" is inserted to reflect the present status of Puerto Rico. The words "of Columbia" are inserted after the word "District" for clarity. The words "the distance of" are omitted as surplusage.
>
> In subsections (e) and (f), the words "the requirements of" and the words "of this article" are omitted as surplusage. The word "presented" is substituted for the word "adduced" in subsection (e).
>
> In subsection (f), the word "directs" is substituted for the words "shall have directed". The words "by law" are omitted as surplusage.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(20), 82 Stat. 1335, 1340 (1968).

2. First codification of the amended Article: 10 U.S.C. § 849 (1964 & Supp. IV 1968).

3. Effective date of amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (20) Section 849(a) (article 49(a)) is amended by inserting after the word "unless" the words "the military judge or court-martial without a military judge hearing the case or, if the case is not being heard,".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 6(b), 97 Stat. 1393, 1400 (1983).

2. First codification of the amended Article: 10 U.S.C. § 849 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of the amendment:

> RECORD OF TRIAL
>
> Sec. 6.
>
> * * *
>
> (b) Subsections (d) and (f) of section 849 (article 49) are each amended by inserting after "read in evidence" the following: "or, in the case of audiotape, videotape, or similar material, may be played in evidence".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(3), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 849 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (3) The following sections are amended by striking the terms "Territory," and "Territories," each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 532, 128 Stat. 3292, 3366 (2014).

2. First codification of the amended Article: 10 U.S.C. § 849 (Supp. II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 532. ORDERING OF DEPOSITIONS UNDER THE UNIFORM CODE OF MILITARY JUSTICE.
>
> Subsection (a) of section 849 of title 10, United States Code (article 49 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(a)(1) At any time after charges have been signed as provided in section 830 of this title (article 30), oral or written depositions may be ordered as follows:
>
> "(A) Before referral of such charges for trial, by the convening authority who has such charges for disposition.
>
> "(B) After referral of such charges for trial, by the convening authority or the military judge hearing the case.
>
> "(2) An authority authorized to order a deposition under paragraph (1) may order the deposition at the request of any party, but only if the party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of the prospective witness be taken and preserved for use at a preliminary hearing under section 832 of this title (article 32) or a court-martial.
>
> "(3) If a deposition is to be taken before charges are referred for trial, the authority under paragraph (1)(A) may designate commissioned officers as counsel for the Government and counsel for the accused, and may authorize those officers to take the deposition of any witness.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5231, 130 Stat. 2000, 2914 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 849 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5231. DEPOSITIONS.

Section 849 of title 10, United States Code (article 49 of the Uniform Code of Military Justice), is amended to read as follows:

§ 849. Art. 49. Depositions

"(a) IN GENERAL.—(1) Subject to paragraph (2), a convening authority or a military judge may order depositions at the request of any party.

"(2) A deposition may be ordered under paragraph (1) only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

"(3) A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

"(4) A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

"(A) Whenever practicable, by an impartial judge advocate certified under section 827(b) of this title (article 27(b)).

"(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by (i) the laws of the United States or (ii) the laws of the place where the deposition is taken.

"(b) REPRESENTATION BY COUNSEL.—Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under section 827 of this title (article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in section 838(b) of this title (article 38(b)).

"(c) ADMISSIBILITY AND USE AS EVIDENCE.—A deposition order under subsection (a) does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as provided by subsection (d), a party may use all or part of a deposition as provided by the rules of evidence.

"(d) CAPITAL CASES.—Testimony by deposition may be presented in capital cases only by the defense."

Art. 50, 10 U.S.C § 850—Admissibility of sworn testimony from records of courts of inquiry

Congress created Art. 50 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 124 (1950). Art. 50 originally was codified at 50 U.S.C. § 625 (1952). In 1956, as shown below, Congress directed that Art. 50 be re-codified at 10 U.S.C. § 850. Information about amendments to Art. 50 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 54 (1956).

2. First codification of the amended Article: 10 U.S.C. § 850 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsections (a) and (b), the word "commissioned" is inserted for clarity.

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 850 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

* * *

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5232, 130 Stat. 2000, 2915 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 850 (2018).

3. Effective date of amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5232. ADMISSIBILITY OF SWORN TESTIMONY BY AUDIOTAPE OR VIDEOTAPE FROM RECORDS OF COURTS OF INQUIRY.

(a) IN GENERAL.—Section 850 of title 10, United States Code (article 50 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(d) AUDIOTAPE OR VIDEOTAPE.—Sworn testimony that—

"(1) is recorded by audiotape, videotape, or similar method; and

"(2) is contained in the duly authenticated record of proceedings of a court of inquiry; is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c).".

(b) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

§ 850. Art. 50. Admissibility of sworn testimony from records of courts of inquiry".

(c) SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.—Such section (article) is further amended—

(1) in subsection (a), by inserting "USE AS EVIDENCE BY ANY PARTY.—" after "(a)";

(2) in subsection (b), by inserting "USE AS EVIDENCE BY DEFENSE.—" after "(b)"; and

(3) in subsection (c), by inserting "USE IN COURTS OF INQUIRY AND MILITARY BOARDS.—" after "(c)".

Art. 50a, 10 U.S.C. § 850a—Defense of lack of mental responsibility

Congress created Art. 50a on Nov. 14, 1986, in the National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 802(a)(1), 100 Stat. 3816, 3905 (1986). It became effective on November 14, 1986. *See Id.* § 802(b), Nov. 14, 1986, 100 Stat. at 3906 ("Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act [Nov. 14, 1986]."). It was first codified at 10 U.S.C. § 850a (Supp. Iv 1986). Information about amendments to Art. 50a since 1986 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5233, 130 Stat. 2000, 2915 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 850a (2018).

3. Effective date of amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5233. CONFORMING AMENDMENT RELATING TO DEFENSE OF LACK OF MENTAL RESPONSIBILITY.

Section 850a(c) of title 10, United States Code (article 50a(c) of the Uniform Code of Military Justice), is amended by striking ", or the president of a court-martial without a military judge,".

Art. 51, 10 U.S.C. § 851—Voting and rulings

Congress created Art. 51 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 124 (1950). Art.51 originally was codified at 50 U.S.C. § 626 (1952). In 1956, as shown below, Congress

directed that Art. 51 be re-codified at 10 U.S.C. § 851. Information about amendments to Art. 51 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 54 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 851 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "in each case" are omitted as surplusage.
>
> In subsection (b), the word "is" is substituted for the words "shall be" in the second sentence. The word "constitutes" is substituted for the words "shall constitute". The word "However," is substituted for the word "but". The word "his" is substituted for the words "any such". The words "the ruling is" are substituted for the words "such ruling be". The words "voice vote" are substituted for the words "vote * * * viva voce".
>
> In subsection (c), the word "must" is substituted for the word "shall" in clause (2), since a condition is prescribed, not a command. The words "United States" are substituted for the word "Government".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(21), 82 Stat. 1335, 1340 (1968).

2. First codification of the amended Article: 10 U.S.C. § 851, (1964 & Supp. IV 1968).

3. Effective date of amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (21) Section 851 (article 51) is amended—
>
> (A) by amending the first sentence of subsection

(a) to read as follows: "Voting by members of a general or special court-martial on the findings and on the sentence, and by members of a court-martial without a military judge upon questions of challenge, shall be by secret written ballot.";

(B) be amending the first three sentences of subsection (b) to read as follows: "The military judge and, except for questions of challenge, the president of a court-martial without a military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change his ruling at any time during the trial."

(C) by striking out the words "law officer of a general court-martial and the president of a special court-martial shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court" in the first sentence of subsection (c) and inserting the words "military judge or the president of a court-martial without a military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them" in place thereof; and

(D) by adding the following new subsection at the end thereof: "(d) Subsections (a), (b), and (c) do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5234, 130 Stat. 2000, 2915 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 851 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5234. VOTING AND RULINGS.

Section 851 of title 10, United States Code (article 51 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking ", and by members of a court-martial without a military judge upon questions of challenge, in the first sentence;

(2) in subsection (b)—

(A) in the first sentence, by striking "and, except for questions of challenge, the president of a court-martial without a military judge"; and

(B) in the second sentence, by striking ", or by the president" and all that follows through the end of the subsection and inserting "is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial."; and

(3) in subsection (c), by striking "or the president of a court-martial without a military judge" in the matter before paragraph (1).

Art. 52, 10 U.S.C. § 852—Votes required for conviction, sentencing, and other matters

Congress created Art. 52 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 125 (1950). Art. 52 originally was codified at 50 U.S.C. § 627 (1952). In 1956, as shown below, Congress directed that Art. 52 be re-codified at 10 U.S.C. § 852. Information about amendments to Art. 52 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 55 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 852 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsections (a) and (b), the word "may" is substituted for the word "shall".

In subsection (b)(2), the words "for more than" are substituted for the words "in excess of".

In subsection (c), the word "disqualifies" is substituted for the words "shall disqualify". The word "is" is substituted for the words "shall be" in the last two sentences.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(22), 82 Stat. 1335, 1340 (1968).

2. First codification of the amended Article: 10 U.S.C. § 852 (1964 & Supp. IV 1968).

3. Effective date of amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (22) Section 852 (article 52) is amended—
>
> (A) by inserting the words "as provided in section 845(b) of this title (article 45(b)) or" after the word "except" in subsection (a) (2); and
>
> (B) by inserting immediately before the period in the first sentence of subsection (c) the words ", but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence."

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5235, 130 Stat. 2000, 2916 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 852 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5235. VOTES REQUIRED FOR CONVICTION, SENTENCING, AND OTHER MATTERS.

Section 852 of title 10, United States Code (article 52 of the Uniform Code of Military Justice), is amended to read as follows:

§ 852. Art. 52. Votes required for conviction, sentencing, and other matters

"(a) IN GENERAL.—No person may be convicted of an offense in a general or special court-martial, other than—

"(1) after a plea of guilty under section 845(b) of this title (article 45(b));

"(2) by a military judge in a court-martial with a military judge alone, under section 816 of this title (article 16); or

"(3) in a court-martial with members under section 816 of this title (article 16), by the concurrence of at least three-fourths of the members present when the vote is taken.

"(b) LEVEL OF CONCURRENCE REQUIRED.—

"(1) IN GENERAL.—Except as provided in subsection (a) and in paragraph (2), all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

"(2) SENTENCING.—A sentence of death requires (A) a unanimous finding of guilty of an offense in this chapter expressly made punishable by death and (B) a unanimous determination by the members that the sentence for that offense shall include death. All other sentences imposed by members shall be determined by the concurrence of at least three-fourths of the members present when the vote is taken.".

Art. 53, 10 U.S.C. § 853—Findings and sentencing

Congress created Art. 53 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 125 (1950). Art. 53 originally was codified at 50 U.S.C. § 628 (1952). In 1956, as shown below, Congress directed that Art. 53 be re-codified at 10 U.S.C. § 853. Information about amendments to Art. 53 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 56 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 853 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "A" is substituted for the word "Every".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5236, 130 Stat. 2000, 2916 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 853 (Supp. IV 2016).

3. Effective date of the amendment: In general, the amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] . . . 53 . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id.* § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5236. FINDINGS AND SENTENCING.

Section 853 of title 10, United States Code (article 53 of the Uniform Code of Military Justice), is amended to read as follows:

§ 853. Art. 53. Findings and sentencing

"(a) ANNOUNCEMENT.—A court-martial shall announce its findings and sentence to the parties as soon as determined.

"(b) SENTENCING GENERALLY.—

"(1) GENERAL AND SPECIAL COURTS-MARTIAL.—

"(A) SENTENCING BY MILITARY JUDGE.—Except as provided in subparagraph (B), and in subsection (c) for capital offenses, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused.

"(B) SENTENCING BY MEMBERS.—If the accused is convicted of an offense in a trial by general or special court-martial consisting of a military judge and members and the accused elects sentencing by members under section 825 of this title (article 25), the members shall sentence the accused.

"(C) SENTENCE OF THE ACCUSED.—The sentence determined pursuant to this paragraph constitutes the sentence of the accused.

"(2) SUMMARY COURTS-MARTIAL.—If the accused is convicted of an offense in a trial by summary court-martial, the court-martial shall sentence the accused.

"(c) SENTENCING FOR CAPITAL OFFENSES.—

"(1) IN GENERAL.—In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death, the members shall determine whether the sentence for that offense shall be death or a lesser authorized punishment.

"(2) LESSER AUTHORIZED PUNISHMENTS.—In accordance with regulations prescribed by the President, the court-martial may include in any sentence to death or life in prison without eligibility for parole other lesser punishments authorized under this chapter.

"(3) OTHER NON-CAPITAL OFFENSES.—In a capital case, if the accused is convicted of a non-capital offense, the accused shall be sentenced for such non-capital offense in accordance with subsection (b), regardless of whether the accused is convicted of an offense for which the court-martial may sentence the accused to death.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(G), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 853 (Supp. V 2017).

3. Effective date of amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

Sec. 1081. Technical, conforming, and clerical amendments

* * *

(c) Technical corrections related to Uniform Code of Military Justice Reform.

(1) In general. Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(G) Section 853(b)(1)(B) (article 53(b)(1)(B)), as amended by section 5236 of the Military Justice Act of 2016 (130 Stat. 2937), is further amended by striking "in a trial".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 539E(a), 135 Stat. 1541, 1700-01 (2021).

2. First codification of the amended Article: 10 U.S.C. § 853 (Supp. III 2021).

3. Effective date of the amendment: December 27, 2023. *See* Pub. L. No. 117-81, § 539E(f), 135 Stat. 1541, 1706 ("The amendments made by this section shall take effect on the date that is two years after the date of the enactment of this Act and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act.").

4. Text of the amendment:

> SEC. 539E. SENTENCING REFORM.
>
> (a) ARTICLE 53; FINDINGS AND SENTENCING.—Section 853 of title 10, United States Code (article 53 of the Uniform Code of Military Justice), is amended—
>
> (1) in subsection (b), by amending paragraph (1) to read as follows:
>
> "(1) GENERAL AND SPECIAL COURTS-MARTIAL.—Except as provided in subsection (c) for capital offenses, if the accused is convicted of an offense in a trial by general or special court-martial, the military judge shall sentence the accused. The sentence determined by the military judge constitutes the sentence of the court-martial."; and
>
> (2) in subsection (c)—
>
> (A) by amending paragraph (1) to read as follows:
>
> "(1) IN GENERAL.—In a capital case, if the accused is convicted of an offense for which the court-martial may sentence the accused to death—
>
> "(A) the members shall determine—
>
> "(i) whether the sentence for that offense shall be death or life in prison without eligibility for parole; or
>
> "(ii) whether the matter shall be returned to the military judge for determination of a lesser punishment; and
>
> "(B) the military judge shall sentence the accused for that offense in accordance with the determination of the members under subparagraph (A)."; and
>
> (B) in paragraph (2), by striking "the court-martial" and inserting "the military judge".

Art. 53a, 10 U.S.C. § 853a—Plea agreements

Congress created Art. 53a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5237, 130 Stat. 2000, 2917 (2016). (Sections 5001-5542 of this Act may also be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 53a is codified at 10 U.S.C. § 853a (2018).) In general, the amendments to this Article "shall not apply in any case in which

charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[] . . . 53a . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id*. § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, Pub. L. No. 115-91, §§ 531(d), 1081(c)(1)(H), 131 Stat. 1283, 1384, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 853a (Supp. V 2017).

3. Effective date of the amendment: The amendments made in § 531(d) and § 1081(c)(1)(H) became effective on January 1, 2019. *See* Pub. L. No. 115-9, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967)."); *Id.* § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.
>
> * * *
>
> (d) LIMITATION ON ACCEPTANCE OF PLEA AGREEMENTS.—Section 853a of title 10, United States Code (article 53a of the Uniform Code of Military Justice), as added by section 5237 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2917), is amended—
>
> (1) in subsection (b)—
>
> (A) in paragraph (2), by striking "or" after the semicolon;
>
> (B) in paragraph (3), by striking the period and inserting a semicolon; and
>
> (C) by adding at the end the following new paragraphs:
>
> "(4) is prohibited by law; or
>
> "(5) is contrary to, or is inconsistent with, a regulation prescribed by the President with respect to terms, conditions, or other aspects of plea agreements."; and

(2) in subsection (d), by striking "shall bind the parties and the military judge" and inserting "shall bind the parties and the court-martial".

* * *

Sec. 1081. Technical, conforming, and clerical amendments

* * *

(c) Technical corrections related to Uniform Code of Military Justice Reform.

(1) In general. Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(H) Subsection (d) of section 853a (article 53a), as added by section 5237 of the Military Justice Act of 2016 (130 Stat. 2917), is amended by striking "military judge" the second place it appears and inserting "court-martial".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, §§ 539 & 539E(b), 135 Stat. 1541, 1698 (2021).

2. First codification of the amended Article: 10 U.S.C. § 853a (Supp. III 2021).

3. Effective date of the amendment: The amendment made Pub. L. No. 117-81, § 539 is effective Dec. 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, §§ 539C(a)-(b), 135 Stat. 1541, 1699, 1701. The amendment made applies to offenses that occur after its effective date. *Id.* The amendment made by Pub. L. No. 117-81, § 539D(b) is effective on Dec. 27, 2023. *See* Pub. L. No. 117-81, § 539E(f), 135 Stat. 1541, 1706 ("The amendments made by this section shall take effect on the date that is two years after the date of the enactment of this Act and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act.").

4. Text of the amendment:

SEC. 539. PLEA AGREEMENTS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (a) of section 853a of title 10, United States Code (article 53a of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1), by striking "At any time" and inserting "Subject to paragraph (3), at any time"; and

(2) by adding at the end the following new paragraph:

"(3) With respect to charges and specifications over which a special trial counsel exercises authority pursuant to section 824a of this title (article 24a), a plea agreement under this

section may only be entered into between a special trial counsel and the accused. Such agreement shall be subject to the same limitations and conditions applicable to other plea agreements under this section (article).".

(b) BINDING EFFECT.—Subsection (d) of such section (article) is amended by inserting after "parties" the following: "(including the convening authority and the special trial counsel in the case of a plea agreement entered into under subsection (a)(3))".

* * *

SEC. 539E. SENTENCING REFORM.

* * *

(b) ARTICLE 53A; PLEA AGREEMENTS.—Section 853a of title 10, United States Code (article 53a of the Uniform Code of Military Justice), as amended by section 539 of this Act, is further amended—

(1) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) ACCEPTANCE OF PLEA AGREEMENT.—Subject to subsection

(c), the military judge of a general or special court-martial shall accept a plea agreement submitted by the parties, except that—

"(1) in the case of an offense with a sentencing parameter set forth in regulations prescribed by the President pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge may reject a plea agreement that proposes a sentence that is outside the sentencing parameter if the military judge determines that the proposed sentence is plainly unreasonable; and

"(2) in the case of an offense for which the President has not established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge may reject a plea agreement that proposes a sentence if the military judge determines that the proposed sentence is plainly unreasonable."

Art. 54, 10 U.S.C. § 854—Record of trial

Congress created Art. 54 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 125 (1950). Art. 54 originally was codified at 50 U.S.C. § 629 (1952). In 1956, as shown below, Congress directed that Art. 54 be re-codified at 10 U.S.C. § 854. Information about amendments to Art. 54 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 56 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 854 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "If" is substituted for the words "In case". The words "any of those" are substituted for the word "such" in the last sentence.
>
> In subsection (b), the words "and the" are substituted for the word "which" before the word "record". The words "the matter and shall be authenticated in the manner required by such regulations as" are substituted for the words "such matter and be authenticated in such manner as may be required by regulations which".
>
> In subsection (c), the words "it is" are inserted before the word "authenticated".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(23), 82 Stat. 1335, 1340 (1968).

2. First codification of the amended Article: 10 U.S.C. § 854 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (23) Section 854 (a) (article 54 (a)) is amended to read as follows: "(a) Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. In a court-martial consisting of only a military judge the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection. If the proceedings have resulted in an acquittal of all charges and specifications or, if not affecting a general or flag officer, in a sentence not including discharge and not in excess of that which may otherwise be adjudged by a special court-martial, the record shall contain such matters as may be prescribed by regulations of the President."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 6(c), 97 Stat. 1393, 1400 (1983).

2. First codification of the amended Article: 10 U.S.C. § 854 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of the amendment:

> Sec. 6.
>
> * * *
>
> (c) Section 854 (article 54) // 10 USC 854. // is amended—,
>
> (1) in subsection (a), by striking out the last sentence;
>
> (2) in subsection (b), by striking out "shall contain the matter and";
>
> (3) by redesignating subsection (c) as subsection (d); and
>
> (4) by inserting after subsection (b) the following new subsection:
>
> "(c)(1) A complete record of the proceedings and testimony shall be prepared—,
>
> "(A) in each general court-martial case in which the sentence adjudged includes death, a dismissal, a discharge, or (if the sentence adjudged does not include a discharge) any other punishment which exceeds that which may otherwise be adjudged by a special court-martial; and
>
> "(B) in each special court-martial case in which the sentence adjudged includes a bad-conduct discharge.
>
> "(2) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations of the President.".

Amendment of Oct. 30, 2000

1. Law amending the Article: Floyd D. Spencer National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, § 555(a), 114 Stat. 1654, 1654A-127 (2000).

2. *First codification of the amended Article*: 10 U.S.C. § 854 (2000).

3. Effective date of amendment: April 1, 2000. *See* Pub. L. No. 106-398, § 555(b), 114 Stat. at 1654A-127 ("The amendment made by subsection (a) shall take effect as of April 1, 2000, and shall apply with respect to charges referred on or after that date to trial by special court-martial.").

4. Text of the amendment:

SEC. 555. REQUIREMENT FOR VERBATIM RECORD IN CERTAIN SPECIAL COURT-MARTIAL CASES.

(a) WHEN REQUIRED.—Subsection (c)(1)(B) of section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended by inserting after "bad-conduct discharge" the following: ", confinement for more than six months, or forfeiture of pay for more than six months".

Amendment of Dec. 31, 2011

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 586(e), 125 Stat. 1298, 1435 (2011).

2. First codification of the amended Article: 10 U.S.C. § 854 (Supp. V 2011).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 586. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON RETENTION AND ACCESS TO EVIDENCE AND RECORDS RELATING TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

* * *

(e) COPY OF RECORDS OF COURT-MARTIAL TO VICTIM OF SEXUAL ASSAULT.--Section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(e) In the case of a general or special court-martial involving a sexual assault or other offense covered by section 920 of this title (article 120), a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records are authenticated. The victim shall be notified of the opportunity to receive the records of the proceedings.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5238, 130 Stat. 2000, 2918 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 854 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* §

3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5238. RECORD OF TRIAL.

Section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

"(a) GENERAL AND SPECIAL COURTS-MARTIAL.—Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court-reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the President may prescribe by regulation.";

(2) in subsection (b)—

(A) by striking "(b) Each special and summary court-martial" and inserting " (b) SUMMARY COURTS-MARTIAL.—EACHSUMMARY COURT-MARTIAL "; AND

(B) by striking "authenticated" and inserting "certified";

(3) by striking subsection (c) and inserting the following new subsection (c):

"(c) CONTENTS OF RECORD.—(1) Except as provided in paragraph (2), the record shall contain such matters as the President may prescribe by regulation.

"(2) In accordance with regulations prescribed by the President, a complete record of proceedings and testimony shall be prepared in any case of a sentence of death, dismissal, discharge, confinement for more than six months, or forfeiture of pay for more than six months.";

(4) in subsection (d)—

(A) by striking "(d) A copy" and inserting "(d) COPY TO ACCUSED.—A copy"; and

(B) by striking "authenticated" and inserting "certified"; and

(5) in subsection (e)—

(A) by striking "(e) In the case" and inserting "(e) COPY TO VICTIM.—In the case ";

(B) by striking "involving a sexual assault or other offense covered by section 920 of this title (article 120)," in the first sentence and inserting ", upon request,"; and

(C) by striking "authenticated" in the second sentence and inserting "certified".

Art. 55, 10 U.S.C. § 855—Cruel and unusual punishments prohibited

Congress created Art. 55 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 126 (1950). Art. 55 originally was codified at 50 U.S.C. § 636 (1952). In 1956, as shown below, Congress directed that Art. 55 be re-codified at 10 U.S.C. § 855. Information about amendments to Art. 55 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 56 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 855 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall".

Art. 56, 10 U.S.C. § 856—Sentencing

Congress created Art. 56 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 126 (1950). Article 56 originally was codified at 50 U.S.C. § 637 (1952). In 1956, as shown below, Congress directed that Art. 56 be re-codified at 10 U.S.C. § 856. Information about amendments to Art. 56 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 56 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 856 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, §§ 1705(a)(1), (2)(A), 127 Stat. 672, 959 (2013).

2. First codification of the amended Article: 10 U.S.C. § 856 (Supp. I 2013).

3. Effective date of the amendment: June 24, 2014. See Pub. L. No. 113-66, § 1705(c), 127 Stat. at 960 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act, and apply to offenses specified in section 856(b)(2) of title 10, United States Code (article 56(b)(2) of the Uniform Code of Military Justice), as added by subsection (a)(1), committed on or after that date.").

4. Text of the amendment:

SEC. 1705. DISCHARGE OR DISMISSAL FOR CERTAIN SEX-RELATED OFFENSES AND TRIAL OF SUCH OFFENSES BY GENERAL COURTS-MARTIAL.

(a) MANDATORY DISCHARGE OR DISMISSAL REQUIRED.—

(1) IMPOSITION.—Section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), is amended—

(A) by inserting "(a)" before "The punishment"; and

(B) by adding at the end the following new subsection:

"(b)(1) While a person subject to this chapter who is found guilty of an offense specified in paragraph (2) shall be punished as a general court-martial may direct, such punishment must include, at a minimum, dismissal or dishonorable discharge, except as provided for in section 860 of this title (article 60).

"(2) Paragraph (1) applies to the following offenses:

"(A) An offense in violation of subsection (a) or (b) of section 920 of this title (article 120(a) or (b)).

"(B) Rape and sexual assault of a child under subsection (a) or (b) of section 920b of this title (article 120b).

"(C) Forcible sodomy under section 925 of this title (article 125).

"(D) An attempt to commit an offense specified in subparagraph (A), (B), or (C) that is punishable under section 880 of this title (article 80).".

(2) CLERICAL AMENDMENTS.—

(A) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 856. Art. 56. Maximum and minimum limits".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5301(a), Dec. 23, 2016, 130 Stat. 2000, 2919 (2016).

2. First codification of the amended Article: 10 U.S.C. § 856 (2018).

3. Effective date of the amendment: In general, "[t]he amendments to Article[] . . . 58 . . . apply only to cases in which all specifications allege offenses committed on or after January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 6(a), 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). However, "[e]xcept as provided by Rule for Courts-Martial 902A . . . any change to sentencing procedures . . . made by Article[]. . . 56(c) . . . applies only to cases in which all specifications allege offenses committed on or after January 1, 2019." *Id*. § 10, 83 Fed. Reg. 9889, 9890-91. The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5301. SENTENCING. (a) IN GENERAL.—Section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), is amended to read as follows:
> § 856. Art. 56. Sentencing
>
> "(a) SENTENCE MAXIMUMS.—The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.
>
> "(b) SENTENCE MINIMUMS FOR CERTAIN OFFENSES.—
>
> "(1) Except as provided in subsection (d) of section 853a of this title (article 53a), punishment for any offense specified in paragraph (2) shall include dismissal or dishonorable discharge, as applicable.
>
> "(2) The offenses referred to in paragraph (1) are as follows:
>
> "(A) Rape under subsection (a) of section 920 of this title (article 120).
>
> "(B) Sexual assault under subsection (b) of such section (article).
>
> "(C) Rape of a child under subsection (a) of section 920b of this title (article 120b).
>
> "(D) Sexual assault of a child under subsection (b) of such section (article).
>
> "(E) An attempt to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 880 of this title (article 80).
>
> "(F) Conspiracy to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 881 of this title (article 81).
>
> "(c) IMPOSITION OF SENTENCE.—
>
> "(1) IN GENERAL.—In sentencing an accused under section 853 of this title (article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces, taking into consideration—
>
> "(A) the nature and circumstances of the offense and the history and characteristics of the accused;

"(B) the impact of the offense on—

"(i) the financial, social, psychological, or medical well-being of any victim of the offense; and

"(ii) the mission, discipline, or efficiency of the command of the accused and any victim of the offense;

"(C) the need for the sentence—

"(i) to reflect the seriousness of the offense;

"(ii) to promote respect for the law;

"(iii) to provide just punishment for the offense;

"(iv) to promote adequate deterrence of misconduct;

"(v) to protect others from further crimes by the accused;

"(vi) to rehabilitate the accused; and

"(vii) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service; and

"(D) the sentences available under this chapter.

"(2) SENTENCING BY MILITARY JUDGE.—In announcing the sentence in a general or special court-martial in which the accused is sentenced by a military judge alone under section 853 of this title (article 53), the military judge shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

"(3) SENTENCING BY MEMBERS.—In a general or special court-martial in which the accused has elected sentencing by members, the court-martial shall announce a single sentence for all of the offenses of which the accused was found guilty.

"(4) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.—(A) If an offense is subject to a sentence of confinement for life, a court-martial may impose a sentence of confinement for life without eligibility for parole.

"(B) An accused who is sentenced to confinement for life without eligibility for parole shall be confined for the remainder of the accused's life unless—

"(i) the sentence is set aside or otherwise modified as a result of—

"(I) action taken by the convening authority or the Secretary concerned; or

"(II) any other action taken during post-trial procedure and review under any other provision of subchapter IX of this chapter;

"(ii) the sentence is set aside or otherwise modified as a result of action taken by a Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court; or

"(iii) the accused is pardoned.

"(d) APPEAL OF SENTENCE BY THE UNITED STATES.—

"(1) With the approval of the Judge Advocate General concerned, the Government may appeal a sentence to the Court of Criminal Appeals, on the grounds that—

"(A) the sentence violates the law; or

"(B) the sentence is plainly unreasonable.

"(2) An appeal under this subsection must be filed within 60 days after the date on which the judgment of a court-martial is entered into the record under section 860c of this title (article 60c).".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, Pub. L. No. 115-91, § 531(e), 131 Stat. 1283, 1385 (2017).

2. First codification of the amended Article: 10 U.S.C. § 856 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).")

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

* * *

(e) APPLICABILITY OF STANDARDS AND PROCEDURES TO SENTENCE APPEAL BY THE UNITED STATES.—Subsection (d)(1) of section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), as added by section 5301 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2919), is amended—

(1) in the matter preceding subparagraph (A), by inserting after "concerned," the following: "and consistent with standards and procedures set forth in regulations prescribed by the President,"; and

(2) in subparagraph (B), by inserting before the period at the end the following: ", as determined in accordance with standards and procedures prescribed by the President".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 539E(c), 135 Stat. 1541, 1701-02 (2021).

2. First codification of the amended Article: 10 U.S.C. § 856 (Supp. III 2021).

3. Effective date of the amendment: Dec. 27, 2023. *See* Pub. L. No. 117-81, § 539E(f), 135 Stat. 1541, 1706 ("The amendments made by this section shall take effect on the date that is two years after the date of the enactment of this Act and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act.").

4. Text of the amendment:

SEC. 539E. SENTENCING REFORM.

* * *

(c) ARTICLE 56; SENTENCING.—Section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (C)(vii), by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(E) the applicable sentencing parameters or sentencing criteria set forth in regulations prescribed by the President pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022."; and

(B) by striking paragraphs (2) through (4) and inserting the following new paragraphs:

"(2) APPLICATION OF SENTENCING PARAMETERS IN GENERAL AND SPECIAL COURTS-MARTIAL.—

"(A) REQUIREMENT TO SENTENCE WITHIN PARAMETERS.—Except as provided in subparagraph (B), in a general or special court-martial in which the accused is convicted of an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge shall sentence the accused for that offense within the applicable parameter.

"(B) EXCEPTION.—The military judge may impose a sentence outside a sentencing parameter upon finding specific facts that warrant such a sentence. If the military judge imposes a sentence outside a sentencing parameter under this subparagraph, the military judge shall include in the record a written statement of the factual basis for the sentence.

"(3) USE OF SENTENCING CRITERIA IN GENERAL AND SPECIAL COURTS-MARTIAL.—In a general or special court-martial in which the accused is convicted of an offense for which the President has established sentencing criteria pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the military judge shall consider the applicable sentencing criteria in determining the sentence for that offense.

"(4) OFFENSE-BASED SENTENCING IN GENERAL AND SPECIAL COURTS-MARTIAL.—In announcing the sentence under section 853 of this title (article 53) in a general or special court-martial, the military judge shall, with respect to each offense of

which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the military judge shall specify whether the terms of confinement are to run consecutively or concurrently.

"(5) INAPPLICABILITY TO DEATH PENALTY.—Sentencing parameters and sentencing criteria shall not apply to a determination of whether an offense should be punished by death.

"(6) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.—

"(A) IN GENERAL.—If an offense is subject to a sentence of confinement for life, a court-martial may impose a sentence of confinement for life without eligibility for parole.

"(B) TERM OF CONFINEMENT.—An accused who is sentenced to confinement for life without eligibility for parole shall be confined for the remainder of the accused's life unless—

"(i) the sentence is set aside or otherwise modified as a result of—

"(I) action taken by the convening authority or the Secretary concerned; or

"(II) any other action taken during post-trial procedure or review under any other provision of subchapter IX of this chapter;

"(ii) the sentence is set aside or otherwise modified as a result of action taken by a court of competent jurisdiction; or

"(iii) the accused receives a pardon or another form of Executive clemency."; and

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking "or" at the end;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a sentence for an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, the sentence is a result of an incorrect application of the parameter; or"; and

(D) in subparagraph (C), as redesignated by subparagraph (B) of this paragraph, by striking ", as determined in accordance with standards and procedures prescribed by the President".

Art. 56a, 10 U.S.C. § 856a—Repealed

Congress added Art. 56a, formerly entitled "Sentence of confinement for life without eligibility for parole," in Pub. L. No. 105-85, div. A, title V, § 581(a)(1), Nov. 18, 1997, 111 Stat. 1759. It was codified at 10 U.S.C. § 856a (2000). Congress indicated its effective date in Pub. L. No. 105-85, div. A, title V, § 581(b), Nov. 18, 1997, 111 Stat. 1760, ("Section 856a of title 10, United States Code (article 56a of the Uniform Code of Military Justice), as added by subsection (a), shall

be applicable only with respect to an offense committed after the date of the enactment of this Act [Nov. 18, 1997].”). Information about the repeal of Article 56a appears below.

Repeal of Dec. 23, 2016

1. Law repealing the Article. National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5301(b), 130 Stat. 2000, 2920 (2016).

2. Effective date of repeal. The amendments to this Article “shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019.” 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also “shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted.” *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) (“clarifying” the constraints in § 5542).

Art. 57, 10 U.S.C. § 857—Effective date of sentences

Congress created Art. 57 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 126 (1950). Art. 57 originally was codified at 50 U.S.C. § 638 (1952). In 1956, as shown below, Congress directed that Art. 57 be re-codified at 10 U.S.C. § 857. Information about amendments to Art. 57 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 56 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 857 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 (“Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.”).

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word “may” is substituted for the word “shall”.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(24), 82 Stat. 1335, 1341 (1968).

2. First codification of the amended Article: 10 U.S.C. § 857 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (24) Section 857 (article 57) is amended by inserting the words "or deferred"' after "suspended" in subsections (a) and (b) ; and by adding at the end thereof a new subsection as follows:
>
> "(d) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in his sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned."

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(f), 97 Stat. 1393, 1400 (1983).

2. First codification of the amended Article: 10 U.S.C. § 857 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of the amendment:

> Sec. 5.
>
> * * *
>
> (f) Subsection (a) of section 857 (article 57(a)) is amended to read as follows:
>
> "(a) No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title (article 60(c))."

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1064, 106 Stat. 2315, 2505 (1992).

2. First codification of the amended Article: 10 U.S.C. § 857 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. Text of the amendment:

> SEC. 1064. POSTPONEMENT OF CONFINEMENT.
>
> Section 857 (article 57) of title 10, United States Code, is amended by adding at the end the following new subsection:
>
> "(e)(1) In any case in which a court-martial sentences a person referred to in paragraph (2) to confinement, the convening authority may postpone the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.
>
> "(2) Paragraph (1) applies to a person subject to this chapter who—
>
> "(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and
>
> "(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.
>
> "(3) In this subsection, the term 'State' includes the District of Columbia and any commonwealth, territory, or possession of the United States.".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 1121, 1123(a)(1), (2), 110 Stat. 186, 462-64 (1996).

2. First codification of the amended Article: 10 U.S.C. § 857 (Supp. II 1996).

3. Effective date of amendment: April 1, 1996. *See* Pub. L. No. 104-106, Div. A, Title XI, § 1121(b), Feb. 10, 1996, 110 Stat. 462 ("The amendment made by subsection (a) shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act.").

4. Text of the amendment:

> SEC. 1121. EFFECTIVE DATE FOR FORFEITURES OF PAY AND ALLOWANCES AND REDUCTIONS IN GRADE BY SENTENCE OF COURT-MARTIAL.

(a) EFFECTIVE DATE OF SPECIFIED PUNISHMENTS.—Subsection (a) of section 857 (article 57) is amended to read as follows:

"(a)(1) Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

"(A) the date that is 14 days after the date on which the sentence is adjudged; or

"(B) the date on which the sentence is approved by the convening authority.

"(2) On application by an accused, the convening authority may defer a forfeiture of pay or allowances or reduction in grade that would otherwise become effective under paragraph (1)(A) until the date on which the sentence is approved by the convening authority. Such a deferment may be rescinded at any time by the convening authority.

"(3) A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect.

"(4) In this subsection, the term 'convening authority', with respect to a sentence of a court-martial, means any person authorized to act on the sentence under section 860 of this title (article 60).".

* * *

SEC. 1123. DEFERMENT OF CONFINEMENT.

(a) DEFERMENT.—Subchapter VIII is amended—

(1) by inserting after subsection (c) of section 857 (article 57) the following:

"§ 857a. Art. 57a. Deferment of sentences";

(2) by redesignating the succeeding two subsections as subsection (a) and (b);

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5302(a), 130 Stat. 2000, 2921 (2016).

2. First codification of the amended Article: 10 U.S.C. § 857 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5302. EFFECTIVE DATE OF SENTENCES. (a) IN GENERAL.—Section 857 of title 10, United States Code (article 57 of the Uniform Code of Military Justice), is amended to read as follows:

§ 857. Art. 57. Effective date of sentences

"(a) EXECUTION OF SENTENCES.—A court-martial sentence shall be executed and take effect as follows:

"(1) FORFEITURE AND REDUCTION.—A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

"(A) the date that is 14 days after the date on which the sentence is adjudged; or

"(B) in the case of a summary court-martial, the date on which the sentence is approved by the convening authority.

"(2) CONFINEMENT.—Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

"(3) APPROVAL OF SENTENCE OF DEATH.—If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as the President sees fit. That part of the sentence providing for death may not be suspended.

"(4) APPROVAL OF DISMISSAL.—If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the Secretary sees fit. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

"(5) COMPLETION OF APPELLATE REVIEW.—If a sentence extends to death, dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may be executed, in accordance with service regulations, after completion of appellate review (and, with respect to death or dismissal, approval under paragraph (3) or (4), as appropriate).

"(6) OTHER SENTENCES.—Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

"(b) DEFERRAL OF SENTENCES.—

"(1) IN GENERAL.—On application by an accused, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

"(2) DEFERRAL OF CERTAIN PERSONS SENTENCED TO CONFINEMENT.—In any case in which a court-martial sentences a person referred to in paragraph (3) to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(3) COVERED PERSONS.—Paragraph (2) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(4) STATE DEFINED.—In this subsection, the term 'State' includes the District of Columbia and any Commonwealth, territory, or possession of the United States.

"(5) DEFERRAL WHILE REVIEW PENDING.—In any case in which a court-martial sentences a person to confinement, but in which review of the case under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.

"(c) APPELLATE REVIEW.—

"(1) COMPLETION OF APPELLATE REVIEW.—Appellate review is complete under this section when—

"(A) a review under section 865 of this title (article 65) is completed; or

"(B) a review under section 866 of this title (article 66) is completed by a Court of Criminal Appeals and—

"(i) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

"(ii) such a petition is rejected by the Court of Appeals for the Armed Forces; or

"(iii) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

"(I) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

"(II) such a petition is rejected by the Supreme Court; or

"(III) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(2) COMPLETION AS FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—The completion of appellate review shall constitute a final judgment as to the legality of the proceedings.".

Art. 57a, 10 U.S.C. § 857a—Repealed

Congress added Art. 57a, formerly entitled "Deferment of sentences," in Pub. L. No. 90-632, § 2(24), 82 Stat. 1335, 1341 (1968). It was codified at 10 U.S.C. § 857a (1964 & Supp. IV 1968). Information about the repeal of Article 56a appears below.

Repeal of Dec. 23, 2016

1. Law repealing the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5302(b)(1), 130 Stat. 2000, 2923 (2016).

2. Effective date of the repeal: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

Art. 58, 10 U.S.C. § 858—Execution of confinement

Congress created Art. 58 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 126 (1950). Art. 58 originally was codified at 50 U.S.C. § 639 (1952). In 1956, as shown below, Congress directed that Art. 58 be re-codified at 10 U.S.C. § 858. Information about amendments to Art. 58 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 57 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 858 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "Secretary concerned" are substituted for the words "Department concerned", since the "Department" as an entity, cannot issue instructions. The word "are" is substituted for the words "shall be". The words "of Columbia" are inserted after "District" for clarity.
>
> In subsection (b), the word "from" is substituted for the word "in". The words "does not deprive" are substituted for the words "shall not be construed as depriving".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(3), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 858 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (3) The following sections are amended by striking the terms "Territory," and "Territories," each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

Art. 58a, 10 U.S.C. § 858a—Sentences: reduction in enlisted grade

Congress created Art. 58a in Act of July 12, 1960, Pub. L. No. 86-633, § 1, 74 Stat. 468, 468 (1960). Article 58a was first codified at 10 U.S.C. § 858a (Supp. II 1960). The effective date of the Article was not specified. Information about amendments to Art. 58a since 1960 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5303, 130 Stat. 2000, 2923 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 858a (2018).

3. Effective date of the amendment: January 1, 2019. "The amendments to Article[] . . . 58 . . . apply only to cases in which all specifications allege offenses committed on or after January 1,

2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 6(a), 83 Fed. Reg. 9889, 9890 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b), 83 Fed. Reg. at 9889. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5303. SENTENCE OF REDUCTION IN ENLISTED GRADE.

Section 858a of title 10, United States Code (article 58a of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) by striking "Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a" and inserting "A";

(B) by striking "as approved by the convening authority" and inserting "as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)"; and

(C) in the matter after paragraph (3), by striking "of that approval" and inserting "on which the judgment is so entered"; and

(2) in subsection (b), by striking "disapproved, or, as finally approved" and inserting "reduced, or, as finally affirmed".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(f)(1), (2), 131 Stat. 1283, 1385 (2017).

2. First codification of the amended Article: 10 U.S.C. § 858a (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1599 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

* * *

(f) SENTENCE OF REDUCTION IN ENLISTED GRADE.—

(1) IN GENERAL.—Subsection (a) of section 858a of title 10, United States Code (article 58a of the Uniform Code of Military Justice), as amended by section 5303(1) of the

Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2923), is further amended in the matter after paragraph (3) by striking ", effective on the date" and inserting the following: ", if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date".

(2) SECTION HEADING.—The heading of section 858a of title 10, United States Code (article 58a of the Uniform Code of Military Justice), is amended to read as follows:

§ 858a. Art. 58a. Sentences: reduction in enlisted grade".

Art. 58b, 10 U.S.C. § 858b—Sentences: forfeiture of pay and allowances during confinement

Congress created Art. 58b on Feb. 10, 1996, in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 1122(a)(1), 110 Stat. 186, 463 (1996). It became effective on April 1, 1996. *See Id.* § 1122(b), 110 Stat. at 463 ("The section (article) added by the amendment made by subsection (a)(1) [this section] shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act."). Art. 58b was first codified at 10 U.S.C. § 858b (Supp. II 1996). Information about amendments to Art. 58a since February 1996 appears below.

Amendment of Sept. 23, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, § 1068(a)(1), 110 Stat. 2422, 2655 (1996).

2. First codification of the amended Article: 10 U.S.C. § 858b (Supp. II 1996).

3. Effective date of the amendment: April 1, 1996. *See* Pub. L. No. 104-201, § 1068(a)(2) ("The amendments made by paragraph (1) shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date.").

4. Text of the amendment:

SEC. 1068. UNIFORM CODE OF MILITARY JUSTICE AMENDMENTS.

(a) TECHNICAL AMENDMENT REGARDING FORFEITURES DURING CONFINEMENT ADJUDGED BY A COURT-MARTIAL.—(1) Section 858b(a)(1) of title 10, United States Code (article 58b(a)(1) of the Uniform Code of Military Justice), is amended—

(A) in the first sentence, by inserting "(if adjudged by a general court-martial)" after "all pay and"; and

(B) in the third sentence, by striking out "two-thirds of all pay and allowances" and inserting in lieu thereof "two-thirds of all pay".

Amendment of Nov. 18, 1997

1. Law amending the Article: Pub. L. No. 105-85, Div. A, Title X, § 1073(a)(9), Nov. 18, 1997, 111 Stat. 1900.

2. First codification of the amended Article: 10 U.S.C. § 858b (Supp. IV 1997).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1073. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(9) Section 858b(a)(1) is amended in the first sentence by striking out "forfeiture" and all that follows through "due that member" and inserting in lieu thereof "forfeiture of pay, or of pay and allowances, due that member".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5302(b)(3), 130 Stat. 2000, 2923 (2016).

2. First codification of the amended Article: 10 U.S.C. § 858b (Supp IV 2016).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5302. EFFECTIVE DATE OF SENTENCES.

* * *

(b) CONFORMING AMENDMENTS.—

* * *

(3) The second sentence of subsection (a)(1) of section 858b of title 10, United States Code (article 58b of the Uniform Code of Military Justice), is amended by striking "section 857(a) of this title (article 57(a))" and inserting "section 857 of this title (article 57)".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(g), 131 Stat. 1283, 1385 (2017).

2. First codification of the amended Article: 10 U.S.C. § 858b (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).")

4. Text of the amendment:

> SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.
>
> * * *
>
> (g) CONVENING AUTHORITY AUTHORITIES.—Section 858b(b) of title 10, United States Code (article 58b(b) of the Uniform Code of Military Justice), is amended in the first sentence by striking "section 860 of this title (article 60)" and inserting "section 860a or 860b of this title (article 60a or 60b)".

Art. 59, 10 U.S.C. § 859—Error of law; lesser included offense

Congress created Art. 59 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 127 (1950). Art. 59 originally was codified at 50 U.S.C. § 646 (1952). In 1956, as shown below, Congress directed that Art. 59 be re-codified at 10 U.S.C. § 59. Information about amendments to Art. 59 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 57 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 859 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall".

Art. 60, 10 U.S.C. § 860—Post-trial processing in general and special courts-martial

Congress created Art. 60 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 127 (1950). Art. 60 originally was codified at 50 U.S.C. § 647 (1952). In 1956, as shown below, Congress directed that Art. 60 be re-codified at 10 U.S.C. § 860. Information about amendments to Art. 60 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 57 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 860 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "a" is substituted for the word "every". The word "by" before the words "any officer" is omitted as surplusage. The word "person" is substituted for the word "officer" before the words "who convened", since, under sections 824 and 823 of this title (articles 23 and 24), noncommissioned officers who are "officers in charge" may convene special and summary courts-martial.

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(a)(1), 97 Stat. 1393, 1395 (1983).

2. First codification of the amended Article: 10 U.S.C. § 860 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of the amendment:

> Sec. 5. (a)(1) Section 860 (article 60) is amended to read as follows:
>
> "Section 860. Art. 60. Action by the convening authority

"(a) The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.

"(b)(1) Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special courts-martial, the accused may make such a submission to the convening authority within 20 days after the sentence is announced. In the case of all summary courts-martial the accused may make such a submission to the convening authority within 7 days after the sentence is announced. If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional 20 days; and

"(B) in the case of all other courts-martial, for not more than an additional 10 days.

"(2) In a summary court-martial case the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1).

"(3) In no event shall the accused in any general or special court-martial case have less than a 7-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, for good cause, may extend this period for up to an additional 10 days.

"(4) The accused may waive his right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.

"(c)(1) The authority under this section to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. Under regulations of the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

"(2) Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this section. Subject to regulations of the Secretary concerned, such action may be taken only after consideration of any matters submitted by the accused under subsection (b) and, if applicable, under subsection (d), or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking such action, in his sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.

"(3) Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required. However, such person, in his sole discretion, may—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

"(d) Before acting under this section on any general court-martial case or any special court-martial case that includes a bad-conduct discharge, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of his staff judge advocate or legal officer. The convening authority or other person taking action under this section shall refer the record of trial to his staff judge advocate or legal officer, and the staff judge advocate or legal officer shall use such record in the preparation of his recommendation. The recommendation of the staff judge advocate or legal officer shall include such matters as the President may prescribe by regulation and shall be served on the accused, who shall have five days from the date of receipt in which to submit any matter in response. The convening authority or other person taking action under this section, for good cause, may extend that period for up to an additional 20 days. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.

"(e)(1) The convening authority or other person taking action under this section, in his sole discretion, may order a proceeding in revision or a rehearing.

"(2) A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision—,

"(A) reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

"(B) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter; or

"(C) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority or other person taking action under this section if he disapproves the findings and sentence and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.".

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 806(a)-(c), 100 Stat. 3816, 3909 (1986).

2. First codification of the amended Article: 10 U.S.C. § 860 (1982 & Supp. IV 1986).

3. Effective date of the amendment: *See* Pub. L. No. 99-661, § 806(c) [(d)], 100 Stat. at 3909 ("The amendments made by this section "10 USC 860 note" shall apply in cases in which the sentence is adjudged on or after the effective date of this title.").

4. Text of the amendment:

SEC. 806. TIME FOR DEFENSE POST-TRIAL SUBMISSIONS

(a) SIMPLIFICATION OF TIME FOR SUBMISSION. —Subsection (b) of section 860 (article 60) is amended —

(1) by striking out paragraph (3);

(2) by redesignating paragraph (2) as paragraph (3) and inserting a comma in that paragraph after "case"; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Except in a summary court-martial case, such a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under subsection (d). In a summary court-martial case, such a submission shall be made within seven days after the sentence is announced.

"(2) If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (1) for not more than an additional 20 days.".

(b) RECOMMENDATIONS OF STAFF JUDGE ADVOCATE. —Subsection (c)(2) of such section is amended by striking out "and, if applicable, under subsection (d),".

(c) CONFORMING AMENDMENTS. —Subsection (d) of such section is amended —

(1) in the third sentence, by striking out "who shall have five days from the date of receipt in which to submit any matter in response" and inserting in lieu thereof "who may submit any matter in response under subsection (b)"; and

(2) by striking out the fourth sentence.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1132, 110 Stat. 186, 464 (1996).

2. First codification of the amended Article: 10 U.S.C. § 860 (Supp. II 1996).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1132. SUBMISSION OF MATTERS TO THE CONVENING AUTHORITY FOR CONSIDERATION.

Section 860(b)(1) (article 60(b)(1)) is amended by inserting after the first sentence the following: "Any such submission shall be in writing.".

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, §§ 1702(b) & (c)(1), 1706, 127 Stat. 672, 955, 957 (2013).

2. First codification of the amended Article: These amendments were not codified before subsequent amendment. They are not included in the codification in 10 U.S.C. § 860 (Supp. I 2013). They are included with the amendments from Dec. 19, 2014, in 10 U.S.C. § 860 (Supp. II 2014).

3. Effective date of the amendment: June 24, 2014. *See* Pub. L. No. 113-66, § 1702(d)(2), 127 Stat. at 958 ("The amendments made by subsection (b) and paragraphs (1) and (2) of subsection (c) shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), on or after that effective date.").

4. Text of the amendment:

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

* * *

(b) ELIMINATION OF UNLIMITED COMMAND PREROGATIVE AND DISCRETION; IMPOSITION OF ADDITIONAL LIMITATIONS.—Subsection (c) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended to read as follows:

"(c)(1) Under regulations of the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

"(2)(A) Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this section. Subject to regulations of the Secretary concerned, such action may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

"(B) Except as provided in paragraph (4), the convening authority or another person authorized to act under this section may approve, disapprove, commute, or suspend the sentence of the court-martial in whole or in part.

"(C) If the convening authority or another person authorized to act under this section acts to disapprove, commute, or suspend, in whole or in part, the sentence of the court-martial for an offense (other than a qualifying offense), the convening authority or other person

shall provide, at that same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of the trial and action thereon.

”(3)(A) Action on the findings of a court-martial by the convening authority or by another person authorized to act under this section is not required.

“(B) If the convening authority or another person authorized to act under this section acts on the findings of a court-martial, the convening authority or other person—

“(i) may not dismiss any charge or specification, other than a charge or specification for a qualifying offense, by setting aside a finding of guilty thereto; or

“(ii) may not change a finding of guilty to a charge or specification, other than a charge or specification for a qualifying offense, to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

“(C) If the convening authority or another person authorized to act under this section acts on the findings to dismiss or change any charge or specification for an offense (other than a qualifying offense), the convening authority or other person shall provide, at that same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of the trial and action thereon.

“(D)(i) In this subsection, the term ‘qualifying offense’ means, except in the case of an offense excluded pursuant to clause (ii), an offense under this chapter for which—

“(I) the maximum sentence of confinement that may be adjudged does not exceed two years; and

“(II) the sentence adjudged does not include dismissal, a dishonorable or bad-conduct discharge, or confinement for more than six months.

“(ii) Such term does not include any of the following:

“(I) An offense under subsection (a) or (b) of section 920 of this title (article 120).

“(II) An offense under section 920b or 925 of this title (articles 120b and 125).

“(III) Such other offenses as the Secretary of Defense may specify by regulation.

“(4)(A) Except as provided in subparagraph (B) or (C), the convening authority or another person authorized to act under this section may not disapprove, commute, or suspend in whole or in part an adjudged sentence of confinement for more than six months or a sentence of dismissal, dishonorable discharge, or bad conduct discharge.

“(B) Upon the recommendation of the trial counsel, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this section shall have the authority to disapprove, commute, or suspend the adjudged sentence in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

“(C) If a pre-trial agreement has been entered into by the convening authority and the accused, as authorized by Rule for Courts-Martial 705, the convening authority or another person authorized to act under this section shall have the authority to *957 approve,

disapprove, commute, or suspend a sentence in whole or in part pursuant to the terms of the pre-trial agreement, subject to the following limitations for convictions of offenses that involve a mandatory minimum sentence:

"(i) If a mandatory minimum sentence of a dishonorable discharge applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section may commute the dishonorable discharge to a bad conduct discharge pursuant to the terms of the pre-trial agreement.

"(ii) Except as provided in clause (i), if a mandatory minimum sentence applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section may not disapprove, otherwise commute, or suspend the mandatory minimum sentence in whole or in part, unless authorized to do so under subparagraph (B).".

(c) CONFORMING AMENDMENTS.—

(1) REFERENCES TO SOLE DISCRETION AND OTHER PERSONS AUTHORIZED TO ACT UNDER ARTICLE 60.—Section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is further amended—

(A) in subsection (b)(2), by striking "or other person taking action under this section" and inserting "or another person authorized to act under this section";

(B) in subsection (d), by striking "or other person taking action under this section" the first place it appears and inserting "or another person authorized to act under this section";

(C) in subsection (e)(1), by striking "or other person taking action under this section, in his sole discretion," and inserting "or another person authorized to act under this section"; and

(D) in subsection (e)(3), by striking "or other person taking action under this section" and inserting "or another person authorized to act under this section".

* * *

SEC. 1706. PARTICIPATION BY VICTIM IN CLEMENCY PHASE OF COURTS-MARTIAL PROCESS.

(a) VICTIM SUBMISSION OF MATTERS FOR CONSIDERATION BY CONVENING AUTHORITY.—Section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), as amended by section 1702, is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) In any case in which findings and sentence have been adjudged for an offense that involved a victim, the victim shall be provided an opportunity to submit matters for consideration by the convening authority or by another person authorized to act under this section before the convening authority or such other person takes action under this section.

"(2)(A) Except as provided in subparagraph (B), the submission of matters under paragraph (1) shall be made within 10 days after the later of—

"(i) the date on which the victim has been given an authenticated record of trial in accordance with section 854(e) of this title (article 54(e)); and

"(ii) if applicable, the date on which the victim has been given the recommendation of the staff judge advocate or legal officer under subsection (e).

"(B) In the case of a summary court-martial, the submission of matters under paragraph (1) shall be made within seven days after the date on which the sentence is announced.

"(3) If a victim shows that additional time is required for submission of matters under paragraph (1), the convening authority or other person taking action under this section, for good cause, may extend the submission period under paragraph (2) for not more than an additional 20 days.

"(4) A victim may waive the right under this subsection to make a submission to the convening authority or other person taking action under this section. Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which a victim may make a submission under this subsection shall be deemed to have expired upon the submission of such waiver to the convening authority or such other person.

"(5) In this section, the term 'victim' means a person who has suffered a direct physical, emotional, or pecuniary loss as a result of a commission of an offense under this chapter (the Uniform Code of Military Justice) and on which the convening authority or other person authorized to take action under this section is taking action under this section.".

(b) LIMITATIONS ON CONSIDERATION OF VICTIM'S CHARACTER.—Subsection (b) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(5) The convening authority or other person taking action under this section shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.".

(c) CONFORMING AMENDMENT.—Subsection (b)(1) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended by striking "subsection (d)" and inserting "subsection (e)".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, §§ 531(a)(1)-(3), (5). 128 Stat. 3292, 3362-63 (2014).

2. First codification of the amended Article: 10 U.S.C. § 860 (Supp. II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.

(a) REVISIONS OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.—

(1) EXPLICIT AUTHORITY FOR CONVENING AUTHORITY TO TAKE ACTION ON FINDINGS OF A COURT-MARTIAL WITH RESPECT TO A QUALIFYING OFFENSE.—Paragraph (3) of subsection (c) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), as amended by section 1702(b) of the National Defense Authorization Act of 2014 (Public Law 113-66; 127 Stat. 955), is amended—

(A) in subparagraph (A), by inserting "and may be taken only with respect to a qualifying offense" after "is not required";

(B) in subparagraph (B)(i)—

(i) by striking ", other than a charge or specification for a qualifying offense,"; and

(ii) by inserting ", but may take such action with respect to a qualifying offense" after "thereto"; and

(C) in subparagraph (B)(ii)—

(i) by striking ", other than a charge or specification for a qualifying offense,"; and

(ii) by inserting ", but may take such action with respect to a qualifying offense" before the period.

(2) CLARIFICATION OF APPLICABILITY OF REQUIREMENT FOR EXPLANATION IN WRITING FOR MODIFICATION TO FINDINGS OF A COURT-MARTIAL.—Paragraph (3)(C) of subsection (c) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), as amended by section 1702(b) of the National Defense Authorization Act of 2014 (Public Law 113-66; 127 Stat. 955), is amended by striking "(other than a qualifying offense)".

(3) VICTIM SUBMISSION OF MATTERS FOR CONSIDERATION BY CONVENING AUTHORITY DURING CLEMENCY PHASE OF COURTS-MARTIAL PROCESS.—Subsection (d) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), as added by section 1706(a) of the National Defense Authorization Act of Fiscal Year 2014 (Public Law 113-66; 127 Stat. 960), is amended—

(A) in paragraph (2)(A)—

(i) in clause (i), by inserting ", if applicable" after "(article 54(e))"; and

(ii) in clause (ii), by striking "if applicable,"; and

(B) in paragraph (5), by striking "loss" and inserting "harm".

* * *

(5) NON-APPLICABILITY OF PROHIBITION ON PRE-TRIAL AGREEMENTS FOR CERTAIN OFFENSES WITH MANDATORY MINIMUM SENTENCES.—Section 860(c)(4)(C)(ii) of title 10, United States Code (article 60(c)(4)(C)(ii) of the Uniform Code of Military Justice), as amended by section 1702(b) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 955), is amended by inserting "pursuant to section 856(b) of this title (article 56(b))" after "applies".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5321, 130 Stat. 2000, 2924 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 860 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). In addition:

> If the accused is found guilty of a specification alleging the commission of one or more offenses before January 1, 2019, Article 60 of the UCMJ, as in effect on the date of the earliest offense of which the accused was found guilty, shall apply to the convening authority, in addition to the suspending authority in Article 60a(c) as enacted by the MJA, to the extent that Article 60:
>
> (1) requires action by the convening authority on the sentence;
>
> (2) permits action by the convening authority on findings;
>
> (3) authorizes the convening authority to modify the findings and sentence of a court-martial, dismiss any charge or specification by setting aside a finding of guilty thereto, or change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification;
>
> (4) authorizes the convening authority to order a proceeding in revision or a rehearing; or
>
> (5) authorizes the convening authority to approve, disapprove, commute, or suspend a sentence in whole or in part.

Id. § 6(b), 83 Fed. Reg. at 9890. *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5321. POST-TRIAL PROCESSING IN GENERAL AND SPECIAL COURTS-MARTIAL.

Section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended to read as follows:

§ 860. Art 60. Post-trial processing in general and special courts-martial

"(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled 'Statement of Trial Results', which shall set forth—

"(A) each plea and finding;

"(B) the sentence, if any; and

"(C) such other information as the President may prescribe by regulation.

"(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

"(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

"(1) may affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any post-trial action by the convening authority; and

"(2) are subject to resolution by the military judge before entry of judgment.".

Art. 60a, 10 U.S.C. § 860a—Limited authority to act on sentence in specified post-trial circumstances

Congress created Art. 60a on Dec. 23, 2016, in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5322, 130 Stat. 2000, 2924 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It was first codified at 10 U.S.C. § 860a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 60a since its creation.

Art. 60b, 10 U.S.C. § 860b—Post-trial actions in summary courts-martial and certain general and special courts-martial

Congress created Art. 60b on Dec. 23, 2016, in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5323, 130 Stat. 2000, 2926 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It was first codified at 10

U.S.C. § 860b (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 60b since its creation.

Art. 60c, 10 U.S.C. § 860c—Entry of judgment

Congress created Art. 60c on Dec. 23, 2016, in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5324, 130 Stat. 2000, 2927 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It was first codified at 10 U.S.C. § 860c (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 60c since its creation.

Art. 61, 10 U.S.C. § 861—Waiver of right to appeal; withdrawal of appeal

Congress created Art. 61 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 127 (1950). Art. 61 originally was codified at 50 U.S.C. § 648 (1952). In 1956, as shown below, Congress directed that Art. 61 be re-codified at 10 U.S.C. § 861. Information about amendments to Art. 61 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 58 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 861 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "each" is substituted for the word "every".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(b)(1), 97 Stat. 1397

2. First codification of the amended Article: 10 U.S.C. § 861 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

RIGHT TO APPEAL AND RELATED MATTERS

Sec. 5.

* * *

(b)(1) Section 861 (article 61) is amended to read as follows:

"Section 861. Art. 61. Waiver or withdrawal of appeal

"(a) In each case subject to appellate review under section 866 or 869(a) of this title (article 66 or 69(a)), except a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review. Such a waiver shall be signed by both the accused and by defense counsel and must be filed within 10 days after the action under section 860(c) of this title (article 60(c)) is served on the accused or on defense counsel. The convening authority or other person taking such action, for good cause, may extend the period for such filing by not more than 30 days.

"(b) Except in a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused may withdraw an appeal at any time.

"(c) A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 866 or 869(a) of this title (article 66 or 69(a)).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5325, 130 Stat. 2000, 2928 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 861 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5325. WAIVER OF RIGHT TO APPEAL AND WITHDRAWAL OF APPEAL.

Section 861 of title 10, United States Code (article 61 of the Uniform Code of Military Justice), is amended to read as follows:

§ 861. Art. 61. Waiver of right to appeal; withdrawal of appeal

"(a) WAIVER OF RIGHT TO APPEAL.—After entry of judgment in a general or special court-martial, under procedures prescribed by the Secretary concerned, the accused may waive the right to appellate review in each case subject to such review under section 866 of this title (article 66). Such a waiver shall be—

"(1) signed by the accused and by defense counsel; and

"(2) attached to the record of trial.

"(b) WITHDRAWAL OF APPEAL.—In a general or special court-martial, the accused may withdraw an appeal at any time.

"(c) DEATH PENALTY CASE EXCEPTION.—Notwithstanding subsections (a) and (b), an accused may not waive the right to appeal or withdraw an appeal with respect to a judgment that includes a sentence of death.

"(d) WAIVER OR WITHDRAWAL AS BAR.—A waiver or withdrawal under this section bars review under section 866 of this title (article 66).".

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 544(a), 136 Stat 2395, 2582 (2022).

2. First codification of the amended Article: 10 U.S.C. § 861 (Supp. IV 2022).

3. Effective date of the amendment: "The amendments made by this section shall not apply to—(1) any matter that was submitted before the date of the enactment of this Act to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice); or (2) any matter that was submitted before the date of the enactment of this Act to a Judge Advocate General under section 869 of such title (article 69 of the Uniform Code of Military Justice)." Pub. L. No. 117-263, § 544(d), 136 Stat. at 2584.

4. Text of the amendment:

SEC. 544. JURISDICTION OF COURTS OF CRIMINAL APPEALS.

(a) WAIVER OF RIGHT TO APPEAL; WITHDRAWAL OF APPEAL.—Section 861(d) of title 10, United States Code (article 61(d) of the Uniform Code of Military Justice), is amended by striking "A waiver" and inserting "Except as provided by section 869(c)(2) of this title (article 69(c)(2)), a waiver".

Art. 62, 10 U.S.C. § 862—Appeal by the United States

Congress created Art. 62 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 127 (1950). Art. 62 originally was codified at 50 U.S.C. § 649 (1952). In 1956, as shown below, Congress directed that Art. 62 be re-codified at 10 U.S.C. § 862. Information about amendments to Art. 62 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 58 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 862 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(c)(1), 97 Stat. 1393, 1398 (1983).

2. First codification of the amended Article: 10 U.S.C. § 862 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 2014. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of the amendment:

RIGHT TO APPEAL AND RELATED MATTERS

* * *

(c)(1) Section 862 (article 62) // 10 USC 862. // is amended to read as follows:

" Section 862. Art. 62. Appeal by the United States

"(a)(1) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal an order or ruling of the military judge which terminates the proceedings with respect to a charge or specification or which excludes evidence that is substantial proof of a fact material in the proceeding. However, the United States may not appeal an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification.

"(2) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and (if the order or ruling appealed is one which excludes evidence) that the evidence excluded is substantial proof of a fact material in the proceeding.

"(3) An appeal under this section shall be diligently prosecuted by appellate Government counsel.

"(b) An appeal under this section shall be forwarded by a means prescribed under regulations of the President directly to the Court of Military Review and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Court of Military Review may act only with respect to matters of law, notwithstanding section 866(c) of this title (article 66(c)). // 10 USC 866. //

"(c) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 862 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 1141(a), 110 Stat. 186, 467 (1996).

2. First codification of the amended Article: 10 U.S.C. § 862 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1141. APPEALS BY THE UNITED STATES

(a) APPEALS RELATING TO DISCLOSURE OF CLASSIFIED INFORMATION.—Section 862(a)(1) (article 62(a)(1)) is amended to read as follows:

"(a)(1) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal the following (other than an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification):

"(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

"(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

"(C) An order or ruling which directs the disclosure of classified information.

"(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

"(E) A refusal of the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information.

"(F) A refusal by the military judge to enforce an order described in subparagraph (E) that has previously been issued by appropriate authority.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5326, 130 Stat. 2000, 2928 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 862 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889,

9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5326. APPEAL BY THE UNITED STATES.

Section 862 of title 10, United States Code (article 62 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1) of subsection (a)—

(A) in the matter before subparagraph (A), by striking "court-martial" and all that follows through the colon at the end and inserting "general or special court-martial, or in a pretrial proceeding under section 830a of this title (article 30a), the United States may appeal the following:"; and

(B) by adding at the end the following new subparagraph:

"(G) An order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members. ";

(2) in paragraph (2) of subsection (a)—

(A) by striking "(2)" and inserting "(2)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) An appeal of an order or ruling may not be taken when prohibited by section 844 of this title (article 44). "; and

(3) by adding at the end the following:

"(d) The United States may appeal a ruling or order of a military magistrate in the same manner as had the ruling or order been made by a military judge, except that the issue shall first be presented to the military judge who designated the military magistrate or to a military judge detailed to hear the issue.

"(e) The provisions of this section shall be liberally construed to effect its purposes.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(h), 131 Stat. 1283, 1385 (2017).

2. First codification of the amended Article: 10 U.S.C. § 862 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).")

4. Text of the amendment:

> SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.
>
> * * *
>
> (h) APPEAL BY THE UNITED STATES.—Section 862(b) of title 10, United States Code (article 62(b) of the Uniform Code of Military Justice), is amended by striking ", notwithstanding section 866(c) of this title (article 66(c))".

Art. 63, 10 U.S.C. § 863—Rehearings

Congress created Art. 63 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 127 (1950). Art. 63 originally was codified at 50 U.S.C. § 650 (1952). In 1956, as shown below, Congress directed that Art. 63 be re-codified at 10 U.S.C. § 863. Information about amendments to Art. 63 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 58 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 863 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "In such a" are substituted for the words "in which".
>
> In subsection (b), the word "Each" is substituted for the word "Every". The word "may" is substituted for the word "shall" in the second sentence.

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(d), 97 Stat. 1393, 1398 (1983).

2. First codification of the amended Article: 10 U.S.C. § 863 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 2014. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The

proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

> RIGHT TO APPEAL AND RELATED MATTERS
>
> Sec. 5.* * *
>
> * * *
>
> (d) Section 863 (article 63) is amended—,
>
> (1) by striking out subsection (a); and
>
> (2) in subsection (b)—,
>
> (A) by striking out "(b)";
>
> (B) by inserting "under this chapter" after "Each rehearing"; and
>
> (C) by inserting at the end thereof the following: "If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.".

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1065, 106 Stat. 2315, 2506 (1992).

2. First codification of the amended Article: 10 U.S.C. § 863 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. Text of the amendment:

> SEC. 1065. SENTENCING AT REHEARINGS.
>
> Section 863 (article 63) of title 10, United States Code, is amended—
>
> (1) by striking out "imposed" in the second sentence and inserting in lieu thereof "approved"; and
>
> (2) by inserting "approved" in the third sentence after "the pretrial agreement, the".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5327, 130 Stat. 2000, 2929 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 863 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5327. REHEARINGS.
>
> Section 863 of title 10, United States Code (article 63 of the Uniform Code of Military Justice), is amended—
>
> (1) by inserting "(a)" before "Each rehearing";
>
> (2) in the second sentence, by striking "may be approved" and inserting "may be adjudged";
>
> (3) by striking the third sentence; and
>
> (4) by adding at the end the following new subsections:
>
> "(b) If the sentence adjudged by the first court-martial was in accordance with a plea agreement under section 853a of this title (article 53a) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial.
>
> "(c) If, after appeal by the Government under section 856(d) of this title (article 56(d)), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Court of Criminal Appeals or Court of Appeals for the Armed Forces, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence, subject to such limitations as the President may prescribe by regulation.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(i), 131 Stat. 1283, 1385 (2017).

2. First codification of the amended Article: 10 U.S.C. § 863 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.
>
> * * *
>
> (i) REHEARING AND SENTENCING.—Subsection (b) of section 863 of title 10, United States Code (article 63 of the Uniform Code of Military Justice), as added by section 5327 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2929), is amended by inserting before the period at the end the following: ", subject to such limitations as the President may prescribe by regulation".

Art. 64, 10 U.S.C. § 864—Judge advocate review of finding of guilty in summary court-martial

Congress created Art. 64 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 128 (1950). Art. 64 originally was codified at 50 U.S.C. § 651 (1952). In 1956, as shown below, Congress directed that Art. 64 be re-codified at 10 U.S.C. § 864. Information about amendments to Art. 64 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 58 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 864 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "shall". The word "is" is substituted for the words "shall constitute".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 7(a)(1), 97 Stat. 1393, 1401 (1983).

2. First codification of the amended Article: 10 U.S.C. § 864 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

REVIEW OF COURTS-MARTIAL AND RELATED MATTERS

Sec. 7. (a)(1) Section 864 (article 64) is amended to read as follows:

" Section 864. Art. 64. Review by a judge advocate

"(a) Each case in which there has been a finding of guilty that is not reviewed under section 866 or 869(a) of this title (article 66 or 69(a)) // 10 USC 866. // shall be reviewed by a judge advocate under regulations of the Secretary concerned. A judge advocate may not review a case under this subsection if he has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

"(1) Conclusions as to whether—,

"(A) the court had jurisdiction over the accused and the offense;

"(B) the charge and specification stated an offense; and

"(C) the sentence was within the limits prescribed as a matter of law.

"(2) A response to each allegation of error made in writing by the accused.

"(3) If the case is sent for action under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

"(b) The record of trial and related documents in each case reviewed under subsection (a) shall be sent for action to the person exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that person's successor in command) if—

"(1) the judge advocate who reviewed the case recommends corrective action;

"(2) the sentence approved under section 860(c) of this title (article 60(c)) extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or

"(3) such action is otherwise required by regulations of the Secretary concerned.

"(c)(1) The person to whom the record of trial and related documents are sent under subsection (b) may—,

"(A) disapprove or approve the findings or sentence, in whole or in part;

"(B) remit, commute, or suspend the sentence in whole or in part;

"(C) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or

"(D) dismiss the charges.

"(2) If a rehearing is ordered but the convening authority finds a rehearing impracticable, he shall dismiss the charges.

"(3) If the opinion of the judge advocate in the judge advocate's review under subsection (a) is that corrective action is required as a matter of law and if the person required to take action under subsection (b) does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the Judge Advocate General for review under section 869(b) of this title (article 69(b)).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5328, 130 Stat. 2000, 2929 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 864 (Supp. IV 2016).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5328. JUDGE ADVOCATE REVIEW OF FINDING OF GUILTY IN SUMMARY COURT-MARTIAL.

(a) IN GENERAL.—Subsection (a) of section 864 of title 10, United States Code (article 64 of the Uniform Code of Military Justice), is amended by striking the first two sentences and inserting the following:

"(a) IN GENERAL.—Under regulations prescribed by the Secretary concerned, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading of such section (article) is amended to read as follows:

§ 864. Art. 64. Judge advocate review of finding of guilty in summary court-martial".

(2) Subsection (b) of such section (article) is amended—

(A) by striking "(b) The record" and inserting "(b) RECORD.—The record";

(B) in paragraph (1), by adding "or" at the end;

(C) by striking paragraph (2); and

(D) by redesignating paragraph (3) as paragraph (2).

(3) Subsection (c)(3) of such section (article) is amended by striking "section 869(b) of this title (article 69(b))." and inserting "section 869 of this title (article 69).".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(I), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 864 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(I) Section 864(a) (article 64(a)), as amended by section 5328(a) of the Military Justice Act of 2016 (130 Stat. 2929), is further amended by striking "(a) (a) IN GENERAL.—" and inserting "(a) IN GENERAL.—".

Art. 65, 10 U.S.C. § 865—Transmittal and review of records

Congress created Art. 65 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 128 (1950). Art. 65 originally was codified at 50 U.S.C. § 652 (1952). In 1956, as shown below, Congress directed that Art. 65 be re-codified at 10 U.S.C. § 865. Information about amendments to Art. 65 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 59 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 865 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b), the word "If" is substituted for the word "Where".
>
> In subsections (a) and (b), the words "send" and "sent" are substituted for the words "forward" and "forwarded", respectively.
>
> In subsection (c), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, § 1(6), 81 Stat. 545, 546 (1967).

2. First codification of the amended Article: 10 U.S.C. § 865 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Chapter 47 of title 10, United States Code, is amended as follows:
>
> * * *
>
> (6) Section 865(e) is amended by striking out the words "or the Air Force, a law specialis of the Navy." And inserting in place thereof the words", Navy, Air Force, or Marine Corps".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(26), 82 Stat. 1335, 1341 (1968).

2. First codification of the amended Article: 10 U.S.C. § 865 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> Sec. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (26) Section 865(b) is amended by striking out "board of review" each time it appears therein and inserting in lieu thereof "Court of Military Review.".

Amendment of Dec. 12, 1980

1. Law amending the Article: *1. Law amending the Article*: Defense Officer Personnel Management Act, Pub. L. No. 96-513, § 511(25), 94 Stat. 2835, 2922 (1980).

2. First codification of the amended Article: 10 U.S.C. § 865 (1976 & Supp. IV 1980).

3. Effective date of amendment: December 12, 1980. *See* Pub. L. No. 96-513, § 701(b)(3), 94 Stat. at 2835 (The amendments made by part B of title V shall take effect on the date of the enactment of this Act.).

4. Text of the amendment:

> Sec. 511. Subtitle A is amended as follows:
>
> * * *
>
> (25) Sections 865(c) and 888 are amended by striking out "the Treasury" and inserting in lieu thereof "Transportation".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 6(d)(1), 97 Stat. 1393, 1401 (1983).

2. First codification of the amended Article: 10 U.S.C. § 865 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

Sec. 6.

* * *

(d)(1) Section 865 (article 65) is amended to read as follows:

"Section 865. Art. 65. Disposition of records

"(a) In a case subject to appellate review under section 866 or 869(a) of this title (article 66 or 69(a)) in which the right to such review is not waived, or an appeal is not withdrawn, under section 861 of this title (article 61), the record of trial and action thereon shall be transmitted to the Judge Advocate General for appropriate action.

"(b) Except as otherwise required by this chapter, all other records of trial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5329, 130 Stat. 2000, 2930 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 865 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5329. TRANSMITTAL AND REVIEW OF RECORDS.

Section 865 of title 10, United States Code (article 65 of the Uniform Code of Military Justice), is amended to read as follows:

§ 865. Art. 65. Transmittal and review of records

"(a) TRANSMITTAL OF RECORDS.—

"(1) FINDING OF GUILTY IN GENERAL OR SPECIAL COURT-MARTIAL.—If the judgment of a general or special court-martial entered under section 860c of this title (article 60c) includes a finding of guilty, the record shall be transmitted to the Judge Advocate General.

"(2) OTHER CASES.—In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.

"(b) CASES FOR DIRECT APPEAL.—

"(1) AUTOMATIC REVIEW.—If the judgment includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more, the Judge Advocate General shall forward the record of trial to the Court of Criminal Appeals for review under section 866(b)(2) of this title (article 66(b)(2)).

"(2) CASES ELIGIBLE FOR DIRECT APPEAL REVIEW.—

"(A) IN GENERAL.—If the case is eligible for direct review under section 866(b)(1) of this title (article 66(b)(1)), the Judge Advocate General shall—

"(i) forward a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Court of Criminal Appeals; and

"(ii) upon written request of the accused, forward a copy of the record of trial to civilian counsel provided by the accused.

"(B) INAPPLICABILITY.—Subparagraph (A) shall not apply if the accused—

"(i) waives the right to appeal under section 861 of this title (article 61); or

"(ii) declines in writing the detailing of appellate defense counsel under subparagraph (A)(i).

"(c) NOTICE OF RIGHT TO APPEAL.—

"(1) IN GENERAL.—The Judge Advocate General shall provide notice to the accused of the right to file an appeal under section 866(b)(1) of this title (article 66(b)(1)) by means of depositing in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in the official service record of the accused.

"(2) INAPPLICABILITY UPON WAIVER OF APPEAL.—Paragraph (1) shall not apply if the accused waives the right to appeal under section 861 of this title (article 61).

"(d) REVIEW BY JUDGE ADVOCATE GENERAL.—

"(1) BY WHOM.—A review conducted under this subsection may be conducted by an attorney within the Office of the Judge Advocate General or another attorney designated under regulations prescribed by the Secretary concerned.

"(2) REVIEW OF CASES NOT ELIGIBLE FOR DIRECT APPEAL.—

"(A) IN GENERAL.—A review under subparagraph (B) shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph (1) or (3) of section 866(b) of this title (article 66(b)).

"(B) SCOPE OF REVIEW.—A review referred to in subparagraph (A) shall include a written decision providing each of the following:

"(i) A conclusion as to whether the court had jurisdiction over the accused and the offense.

"(ii) A conclusion as to whether the charge and specification stated an offense.

"(iii) A conclusion as to whether the sentence was within the limits prescribed as a matter of law.

"(iv) A response to each allegation of error made in writing by the accused.

"(3) REVIEW WHEN DIRECT APPEAL IS WAIVED, WITHDRAWN, OR NOT FILED.—

"(A) IN GENERAL.—A review under subparagraph (B) shall be completed in each general and special court-martial if—

"(i) the accused waives the right to appeal or withdraws appeal under section 861 of this title (article 61); or

"(ii) the accused does not file a timely appeal in a case eligible for direct appeal under subparagraph (A), (B), or (C) of section 866(b)(1) of this title (article 66(b)(1)).

"(B) SCOPE OF REVIEW.—A review referred to in subparagraph (A) shall include a written decision limited to providing conclusions on the matters specified in clauses (i), (ii), and (iii) of paragraph (2)(B).

"(e) REMEDY.—

"(1) IN GENERAL.—If after a review of a record under subsection (d), the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the Judge Advocate General, who may set aside the findings or sentence, in whole or in part.

"(2) REHEARING.—In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

"(3) REMEDY WITHOUT REHEARING.—

"(A) DISMISSAL WHEN NO REHEARING ORDERED.—If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

"(B) DISMISSAL WHEN REHEARING IMPRACTICAL.—If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(J), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 865 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(J) Subsection (b)(1) of section 865 (article 65), as added by section 5329 of the Military Justice Act of 2016 (130 Stat. 2930), is amended by striking "section 866(b)(2) of this title (article 66(b)(2))" and inserting "section 866(b)(3) of this title (article 66(b)(3))".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 539A, 135 Stat. 1541, 1698-99 (2021).

2. First codification of the amended Article: 10 U.S.C. § 865 (Supp. III 2021).

3. Effective date of the amendment: December 27, 2023, provided that the President prescribes regulations necessary to carry out the amendment. If the President does not prescribe regulations before Dec. 27, 2023, the amendment will take effect when the President prescribes the regulations. *See* Pub. L. No. 117-81, § 539C(a) & (b), 135 Stat. 1541, 1699. The amendment applies to offenses that occur after its effective date. *Id.*

4. Text of the amendment:

SEC. 539A. DETERMINATIONS OF IMPRACTICABILITY OF REHEARING.

(a) TRANSMITTAL AND REVIEW OF RECORDS.—Section 865(e)(3)(B) of title 10, United States Code (article 65(e)(3)(B) of the Uniform Code of Military Justice), is amended—

(1) by striking "IMPRACTICAL.—If the Judge Advocate General" and inserting the following: "IMPRACTICABLE.—"

"(i) IN GENERAL.—Subject to clause (ii), if the Judge Advocate General";

(2) by striking "impractical" and inserting "impracticable"; and

(3) by adding at the end the following new clause:

"(ii) CASES REFERRED BY SPECIAL TRIAL COUNSEL .—If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.".

(b) COURTS OF CRIMINAL APPEALS.—Section 866(f)(1)(C) of title 10, United States Code (article 66(f)(1)(C) of the Uniform Code of Military Justice), is amended—

(1) by striking "IMPRACTICABLE.—If the Court of Criminal Appeals" and inserting the following: "IMPRACTICABLE.—

"(i) IN GENERAL.—Subject to clause (ii), if the Court of Criminal Appeals"; and

(2) by adding at the end the following new clause:

"(ii) CASES REFERRED BY SPECIAL TRIAL COUNSEL.—If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.".

(c) REVIEW BY THE COURT OF APPEALS FOR THE ARMED FORCES.—Section 867(e) of title 10, United States Code (article 67(e) of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, if a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.".

(d) REVIEW BY JUDGE ADVOCATE GENERAL.—Section 869(c)(1)(D) of title 10, Untied States Code (article 69(c)(1)(D) of the Uniform Code of Military Justice), is amended—

(1) by striking "If the Judge Advocate General" and inserting "(i) Subject to clause (ii), if the Judge Advocate General";

(2) by striking "impractical" and inserting "impracticable"; and

(3) by adding at the end the following new clause:

"(ii) If a case was referred to trial by a special trial counsel, a special trial counsel shall determine if a rehearing is impracticable and shall dismiss the charges if the special trial counsel so determines.".

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 563, 138 Stat 1773, 1903-04 (2024).

2. First codification of the amended Article: 10 U.S.C. § 865 (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

Subsection (b) of section 865 of title 10, United States Code (article 65 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1)—

(A) by striking "the Judge Advocate General shall forward the record" and inserting the following: "the Judge Advocate General shall forward—

"(A) the record";

(B) in subparagraph (A), as designated by subparagraph (A) of this paragraph, by striking the period and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(B) a copy of the record of trial to an appellate defense counsel who shall be detailed to review the case and, upon request of the accused, to represent the accused before the Court of Criminal Appeals."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "shall" and inserting "shall, upon written request of the accused";

(ii) in clause (i), by striking ", upon request of the accused,"; and

(iii) in clause (ii), by striking "upon written request of the accused,"; and

(B) in subparagraph (B)—

(i) by striking "accused" and all that follows through "waives" and inserting "accused waives";

(ii) by striking "; or" and inserting a period; and

(iii) by striking clause (ii).

Art. 66, 10 U.S.C. § 866—Courts of Criminal Appeals

Congress created Art. 66 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 128 (1950). Art. 66 originally was codified at 50 U.S.C. § 653 (1952). In 1956, as shown below, Congress directed that Art. 66 be re-codified at 10 U.S.C. § 866. Information about amendments to Art. 66 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 59 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 866 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "Each" is substituted for the words "The * * * of each of the armed forces". The word "must" is substituted for the word "shall" after the word "whom",

since a condition is prescribed, not a command. The words "of the United States" are omitted as surplusage.

In subsections (a) and (b), the word "commissioned" is inserted before the word "officer".

In subsection (c), the word "may" is substituted for the word "shall" and for the words "shall have authority to".

In subsection (e), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (f), the words "of the armed forces" and "proceedings in and before" are omitted as surplusage.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(27), 82 Stat. 1335, 1341 (1968).

2. First codification of the amended Article: 10 U.S.C. § 866 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 47 of title 10, United States Code, is amended as follows:

* * *

(27) Section 866 is amended—

(A) by striking out the catchline and inserting in lieu thereof the following:

"§ 866. Art. 66, Revie by Court of Military Review";

(B) by amending subsection (a) to read as follows:

"(A) Each Judge Advocate General shall establish a Court of Military review which shall be composed of not less than three appellate military judges. For the purpose of reviewing court-martial cases, the court may sit in panels or as a whole in accordance with rules prescribed under subsection (f). Appellate military judges who are assigned to a Court of Military Review may be commissioned officers or civilians, each of whom must be a member of a bar of a Federal court or of the highest court of a State. The Judge Advocate General shall designate as chief judge one of the appellate military judges of the Court of Military Review established by him. The chief judge shall determine on which panels of the court the appellate judges assigned to the court will serve and which military judge assigned to the court will act as the senior judge on each panel.";

(C) by striking out "board of review" each time it appears in subsection (b), (c), (d), and (e) and inserting in lieu thereof "Court of Military Review";

(D) by striking out "boards of review" each time it appears in subsection (f) and inserting in lieu thereof "Courts of Military Review"; and

(E) by adding at the end thereof of the following new subsections:

"(g) No member of a Court of Military Review shall be required, or on his own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other member of the same or another Court of Military Review, an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces should be retained on active duty.

"(h) No member of a Court of Military Review shall be eligible to review the record of any trial if such member served as investigating officer in the case or served as a member of the court-martial before which such trial was conducted, or served as military judge, trial or defense counsel, or reviewing officer of such trial.".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 7(b), (c), 10(c)(1), 97 Stat. 1393, 1402, 1406 (1983).

2. First codification of the amended Article: 10 U.S.C. § 866 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .");

4. Text of the amendment:

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* * *

(b) Section 866(a) (article 66(a)) is amended by inserting after the second sentence the following new sentence: "Any decision of a panel may be reconsidered by the court sitting as a whole in accordance with such rules.".

(c) Section 866(b) (article 66(b)) is amended to read as follows:

"(b) The Judge Advocate General shall refer to a Court of Military Review the record in each case of trial by court-martial—,

"(1) in which the sentence, as approved, extends to death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad-conduct discharge, or confinement for one year or more; and

"(2) except in the case of a sentence extending to death, the right to appellate review has not been waived or an appeal has not been withdrawn under section 861 of this title (article 61).".

* * *

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* * *

(c)(1) Section 866(e) (article 66(e)) is amended by striking out "or the Court of Military Appeals" and inserting in lieu thereof "the Court of Military Appeals, or the Supreme Court".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §§ 924(b)(2), (c)(1), (4)(A), 108 Stat. 2663, 2832 (1994).

2. First codification of the amended Article: 10 U.S.C. § 866 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(b) RENAMING OF THE COURTS OF MILITARY REVIEW.—(1) Each Court of Military Review shall hereafter be known and designated as a Court of Criminal Appeals.

***

(2) Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *866(e) [and other listed sections]* * *

* * *

(4)(A) The heading of section 866 is amended to read as follows:

"§ 866. Art. 66. Review by Court of Criminal Appeals".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1153, 110 Stat. 186, 468 (1996).

2. First codification of the amended Article: 10 U.S.C. § 866 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1153. TECHNICAL AMENDMENT.

Section 866(f) (article 66(f)) is amended by striking out "Courts of Military Review" both places it appears and inserting in lieu thereof "Courts of Criminal Appeals".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5330, 130 Stat. 2000, 2932 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 866 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5330. COURTS OF CRIMINAL APPEALS

(a) APPELLATE MILITARY JUDGES.—Subsection (a) of section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended—

(1) in the second sentence, by striking "subsection (f)" and inserting "subsection (h)";

(2) in the fourth sentence, by inserting after "highest court of a State" the following: "and must be certified by the Judge Advocate General as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge"; and

(3) by adding at the end the following new sentence: "In accordance with regulations prescribed by the President, assignments of appellate military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.".

(b) REVISION OF APPELLATE PROCEDURES.—Such section (article) is further amended—

(1) by redesignating subsections (e), (f), (g), and (h) as subsections (g), (h), (i), and (j), respectively; and

(2) by striking subsections (b), (c), and (d) and inserting the following new subsections:

"(1) APPEALS BY ACCUSED.—A Court of Criminal Appeals shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under section 860c of this title (article 60c), as follows:

"(A) On appeal by the accused in a case in which the sentence extends to confinement for more than six months and the case is not subject to automatic review under paragraph (3).

"(B) On appeal by the accused in a case in which the Government previously filed an appeal under section 862 of this title (article 62).

"(C) On appeal by the accused in a case that the Judge Advocate General has sent to the Court of Criminal Appeals for review of the sentence under section 856(d) of this title (article 56(d)).

"(D) In a case in which the accused filed an application for review with the Court under section 869(d)(1)(B) of this title (article 69(d)(1)(B)) and the application has been granted by the Court.

"(2) REVIEW OF CERTAIN SENTENCES.—A Court of Criminal Appeals shall have jurisdiction over all cases that the Judge Advocate General orders sent to the Court for review under section 856(d) of this title (article 56(d)).

"(3) AUTOMATIC REVIEW.—A Court of Criminal Appeals shall have jurisdiction over a court-martial in which the judgment entered into the record under section 860c of this title (article 60c) includes a sentence of death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable discharge or bad-conduct discharge, or confinement for 2 years or more.

"(c) TIMELINESS.—An appeal under subsection (b)(1) is timely if it is filed as follows:

"(1) In the case of an appeal by the accused under subsection (b)(1)(A) or (b)(1)(B), if filed before the later of—

"(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)); or

"(B) the date set by the Court of Criminal Appeals by rule or order.

"(2) In the case of an appeal by the accused under subsection (b)(1)(C), if filed before the later of—

"(A) the end of the 90-day period beginning on the date the accused is notified that the application for review has been granted by letter placed in the United States mails for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record; or

"(B) the date set by the Court of Criminal Appeals by rule or order.

"(d) DUTIES.—

"(1) CASES APPEALED BY ACCUSED.—In any case before the Court of Criminal Appeals under subsection (b), the Court may act only with respect to the findings and sentence as entered into the record under section 860c of this title (article 60c). The Court may affirm only such findings of guilty, and the sentence or such part or amount of the

sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the Court may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

"(2) ERROR OR EXCESSIVE DELAY.—In any case before the Court of Criminal Appeals under subsection (b), the Court may provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under section 860c of this title (article 60c).

"(e) CONSIDERATION OF APPEAL OF SENTENCE BY THE UNITED STATES.—

"(1) IN GENERAL.—In considering a sentence on appeal or review as provided in section 856(d) of this title (article 56(d)), the Court of Criminal Appeals may consider—

"(A) whether the sentence violates the law; and

"(B) whether the sentence is plainly unreasonable.

"(2) RECORD ON APPEAL OR REVIEW.—In an appeal or review under this subsection or section 856(d) of this title (article 56(d)), the record on appeal or review shall consist of—

"(A) any portion of the record in the case that is designated as pertinent by either of the parties;

"(B) the information submitted during the sentencing proceeding; and

"(C) any information required by rule or order of the Court of Criminal Appeals.

"(f) LIMITS OF AUTHORITY.—

"(1) SET ASIDE OF FINDINGS.—

"(A) IN GENERAL.—If the Court of Criminal Appeals sets aside the findings, the Court—

"(i) may affirm any lesser included offense; and

"(ii) may, except when prohibited by section 844 of this title (article 44), order a rehearing.

"(B) DISMISSAL WHEN NO REHEARING ORDERED.—If the Court of Criminal Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.

"(C) DISMISSAL WHEN REHEARING IMPRACTICABLE.—If the Court of Criminal Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

"(2) SET ASIDE OF SENTENCE.—If the Court of Criminal Appeals sets aside the sentence, the Court may—

"(A) modify the sentence to a lesser sentence; or

"(B) order a rehearing.

"(3) ADDITIONAL PROCEEDINGS.—If the Court determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address

a substantial issue, subject to such limitations as the Court may direct and under such regulations as the President may prescribe. ".

(c) ACTION WHEN REHEARING IMPRACTICABLE AFTER REHEARING ORDER.—Subsection (g) of such section (article), as redesignated by subsection (b)(1) of this section, is amended—

(1) in the first sentence, by striking "convening authority" and inserting "appropriate authority"; and

(2) by striking the last sentence.

(d) SECTION HEADING.—The heading of such section (article) is amended to read as follows:

§ 866. Art. 66. Courts of Criminal Appeals".

(e) SUBSECTION HEADING AMENDMENTS FOR STYLISTIC CONSISTENCY.—Such section (article) is further amended—

(1) in subsection (a), by inserting "COURTS OF CRIMINAL APPEALS.—" after "(a)";

(2) in subsection (g), as redesignated by subsection (b)(1) of this section, by inserting "ACTION IN ACCORDANCE WITH DECISIONS OF COURTS.—" after "(g)";

(3) in subsection (h), as so redesignated, by inserting "RULES OF PROCEDURE.—" after "(h)";

(4) in subsection (i), as so redesignated, by inserting "PROHIBITION ON EVALUATION OF OTHER MEMBERS OF COURTS.—" after "(i)"; and

(5) in subsection (j), as so redesignated, by inserting "INELIGIBILITY OF MEMBERS OF COURTS TO REVIEW RECORDS OF CASES INVOLVING CERTAIN PRIOR MEMBER SERVICE.—" after "(j)".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, §§ 531(j), § 1081(c)(1)(K), 131 Stat. 1283, 1385, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 866 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

* * *

(j) COURTS OF CRIMINAL APPEALS.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), as amended by section 5330 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2932), is further amended—

(1) in subsection (e)(2)(C), by inserting after "required" the following: "by regulation prescribed by the President or"; and

(2) in subsection (f)(3)—

(A) by inserting "of Criminal Appeals" after "Court" the first time it appears; and

(B) by adding at the end the following new sentence: "If the Court of Appeals for the Armed Forces determines that additional proceedings are warranted, the Court of Criminal Appeals shall order a hearing or other proceeding in accordance with the direction of the Court of Appeals for the Armed Forces.".

* * *

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(K) Subsection (f)(3) of section 866 (article 66), as added by section 5330 of the Military Justice Act of 2016 (130 Stat. 2932), is amended by inserting after "Court" the first place it appears the following: "of Criminal Appeals".

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, §§ 542(a), (b), 134 Stat. 3388, 3611 (2021).

2. First codification of the amended Article: 10 U.S.C. § 866 (Supp. II 2020).

3. Effective date of the amendment: January 1, 2021. *See* Pub. L. No. 116-283, § 542(e)(1), 134 Stat. at 3612 ("The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the assignment of appellate military judges on or after that date."); *Id.* § 542(e)(2) 134 Stat. at 3613 ("The amendments made by subsections (b) and (c) shall take effect on the date of the enactment of this Act, and shall apply with respect to any case in which every finding of guilty entered into the record under section 860c of title 10, United States Code (article 60c of the Uniform Code of Military Justice), is for an offense that occurred on or after that date.).

4. Text of the amendment:

SEC. 542. QUALIFICATIONS OF JUDGES AND STANDARD OF REVIEW FOR COURTS OF CRIMINAL APPEALS.

(a) QUALIFICATIONS OF CERTAIN JUDGES.—Section 866(a) of title 10, United States Code (article 66(a) of the Uniform Code of Military Justice), is amended—

(1) by striking "Each Judge" and inserting:

"(1) IN GENERAL.—Each Judge"; and

(2) by adding at the end the following new paragraph:

"(2) ADDITIONAL QUALIFICATIONS.—In addition to any other qualifications specified in paragraph (1), any commissioned officer or civilian assigned as an appellate military judge to a Court of Criminal Appeals shall have not fewer than 12 years of experience in the practice of law before such assignment.".

(b) STANDARD OF REVIEW.—Paragraph (1) of section 866(d) of title 10, United States Code (article 66(d) of the Uniform Code of Military Justice), is amended to read as follows:

"(1) CASES APPEALED BY ACCUSED.—

"(A) IN GENERAL.—In any case before the Court of Criminal Appeals under subsection (b), the Court may act only with respect to the findings and sentence as entered into the record under section 860c of this title (article 60c). The Court may affirm only such findings of guilty as the Court finds correct in law, and in fact in accordance with subparagraph (B). The Court may affirm only the sentence, or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved.

"(B) FACTUAL SUFFICIENCY REVIEW.—(i) In an appeal of a finding of guilty under subsection (b), the Court may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.

"(ii) After an accused has made such a showing, the Court may weigh the evidence and determine controverted questions of fact subject to—

"(I) appropriate deference to the fact that the trial court saw and heard the witnesses and other evidence; and

"(II) appropriate deference to findings of fact entered into the record by the military judge.

"(iii) If, as a result of the review conducted under clause (ii), the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding, or affirm a lesser finding.".

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 539E(d), 135 Stat. 1541, 1698 (2021).

2. First codification of the amended Article: 10 U.S.C. § 856 (Supp. III 2021).

3. Effective date of the amendment: December 27, 2023. *See* Pub. L. No. 117-81, § 539E(f), 135 Stat. 1541, 1706 ("The amendments made by this section shall take effect on the date that is two

years after the date of the enactment of this Act and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act.").

4. Text of the amendment:

SEC. 539E. SENTENCING REFORM.

* * *

(d) ARTICLE 66; COURTS OF CRIMINAL APPEALS.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), as amended by section 539A of this Act, is further amended—

(1) in subsection (d)(1)(A), by striking the third sentence; and

(2) by amending subsection (e) to read as follows:

"(e) CONSIDERATION OF SENTENCE.—

"(1) IN GENERAL.—In considering a sentence on appeal, other than as provided in section 856(d) of this title (article 56(d)), the Court of Criminal Appeals may consider—

"(A) whether the sentence violates the law;

"(B) whether the sentence is inappropriately severe—

"(i) if the sentence is for an offense for which the President has not established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022; or

"(ii) in the case of an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, if the sentence is above the upper range of such sentencing parameter;

"(C) in the case of a sentence for an offense for which the President has established a sentencing parameter pursuant to section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, whether the sentence is a result of an incorrect application of the parameter;

"(D) whether the sentence is plainly unreasonable; and

"(E) in review of a sentence to death or to life in prison without eligibility for parole determined by the members in a capital case under section 853(c) of this title (article 53(c)), whether the sentence is otherwise appropriate, under rules prescribed by the President.

"(2) RECORD ON APPEAL.—In an appeal under this subsection or section 856(d) of this title (article 56(d)), other than review under subsection (b)(2) of this section, the record on appeal shall consist of—

"(A) any portion of the record in the case that is designated as pertinent by any party;

"(B) the information submitted during the sentencing proceeding; and "(C) any information required by rule or order of the Court of Criminal Appeals.".

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 544(b), 136 Stat 2395, 2582 (2022).

2. First codification of the amended Article: 10 U.S.C. § 866 (Supp. IV 2022).

3. Effective date of the amendment: "The amendments made by this section shall not apply to—(1) any matter that was submitted before the date of the enactment of this Act to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice); or (2) any matter that was submitted before the date of the enactment of this Act to a Judge Advocate General under section 869 of such title (article 69 of the Uniform Code of Military Justice)." Pub. L. No. 117-263, § 544(d), 136 Stat. at 2584.

4. Text of the amendment:

SEC. 544. JURISDICTION OF COURTS OF CRIMINAL APPEALS.

* * *

(b) JURISDICTION.—Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b)(1), by striking "shall have jurisdiction over" and all that follows through the period at the end of subparagraph (D) and inserting the following: "shall have jurisdiction over—

"(A) a timely appeal from the judgment of a court-martial, entered into the record under section 860c(a) of this title (article 60c(a)), that includes a finding of guilty; and

"(B) a summary court-martial case in which the accused filed an application for review with the Court under section 869(d)(1) of this title (article 69(d)(1)) and for which the application has been granted by the Court."; and

(2) in subsection (c), by striking "is timely if" and all that follows through the period at the end of paragraph (2) and inserting the following: "is timely if—

"(1) in the case of an appeal under subparagraph (A) of such subsection, it is filed before the later of—

"(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)); or

"(B) the date set by the Court of Criminal Appeals by rule or order; and

"(2) in the case of an appeal under subparagraph (B) of such subsection, an application for review with the Court is filed not later than the earlier of the dates established under section 869(d)(2)(B) of this title (article 69(d)(2)(B)).".

Art. 67, 10 U.S.C. § 867—Review by the Court of Appeals for the Armed Forces

Congress created Art. 67 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 129 (1950). Art. 67 originally was codified at 50 U.S.C. § 654 (1952). In 1956, as shown below, Congress directed that Art. 67 be re-codified at 10 U.S.C. § 867. Information about amendments to Art. 67 since 1950 appears below.

Amendment of Mar. 2, 1955

1. Law amending the Article: Act of March 2, 1955, Pub. L. No. 84-9, § 1(i), 69 Stat. 9, 10.

2. First codification of the amended Article: 10 U.S.C. § 867 (1952 & Supp. III 1955).

3. Effective date of the amendment: March 2, 1955. *See* Pub. L. No. 84-9, § 5, 69 Stat. at 11 ("The provisions of this Act shall take effect on March 2, 1955.").

4. Summary of the amendment:

> [Sec. 1] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That * * *
>
> * * *
>
> (i) (1) Article 67 of the Uniform Code of Military Justice, relating to judges of the Court of Military Appeals, is amended by striking out "$17,500" and substituting therefor "25,500".
>
> (2) Such article is further amended by adding at the end of subdivision (a) (1) thereof the following: "Each judge shall, upon his certificate, be paid by the Secretary of Defense all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding $15 per day, while attending court or transacting official business at a place other than his official station. The official station of such judges for such purpose shall be the District of Columbia."

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 60 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 867 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a)(1), the word "is" is substituted for the words "is hereby established". The words "all" and "which shall be" are omitted as surplusage. The word "consists" is substituted for the words "shall consist". The word "civil" is substituted for the word "civilian". The word "may" is substituted for the word "shall" before the words "be appointed". The word "is" is substituted for the word "shall" before the words "any person". The words "is entitled to" are substituted for the words "shall receive". The word "is" is substituted for the words "shall be" in the fourth sentence. The word "may" is substituted for the words "shall have power to * * * to". The word "does" is substituted for the word "shall" in the next to the last sentence. In the last sentence, the words "is entitled * * * to" are substituted for the word "shall". The word "outside" is substituted for the words "at a place other than his official station. The official station of such judges for such purpose shall be". The words "also" and "actually" are omitted as surplusage.

In subsection (a)(2), the words "February 28, 1951," are substituted for the words "the effective date of this subdivision". The word "shall" in the first sentence, and the word "shall" before the word "expire" in the second sentence, are omitted as surplusage. The word "before" is substituted for the words "prior to". The word "may" is substituted for the word "shall" before the words "be appointed".

In subsection (a)(3), the word "for" is substituted for the words "upon the ground of".

In subsection (b), the words "the following cases" are omitted as surplusage.

In subsections (b) and (d), the word "sent" is substituted for the word "forwarded".

In subsection (c), the word "when" is inserted after the word "time". The words "a grant of" are omitted as surplusage.

In subsection (d), the word "may" is substituted for the word "shall" in the first sentence.

In subsection (f), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (g), the words "of the armed forces" are omitted as surplusage. The words "policies as to sentences" are substituted for the words "sentence policies". The word "considered" is substituted for the word "deemed". The words "Secretaries of the military departments, and the Secretary of the Treasury" are substituted for the words "Secretaries of the Departments".

Amendment of Aug. 14, 1964

1. Law amending the Article: Act of August 16, 1964, Pub. L. No. 88-426, § 403(j), 78 Stat. 400, 434 (1964).

2. First codification of the amended Article: 10 U.S.C. § 867 (1964).

3. Effective date of the amendment: July 1, 1964. See Pub. L. No. 88-426, § 501(a), 78 Stat. at 435 ("Except to the extent provided in subsections (b) and (c) of this section, this Act and the increases in compensation made by this Act and the increases in compensation made by this Act shall become effective on the first day of the first pay period which begins on or after July 1, 1964.").

4. Text of the amendment:

Sec. 403.

* * *

(j) Section 867(a)(1) of title 10, United States Code, relating to judges of the Court of Military Appeals is amended by striking out "$25,500" and substituting therefor "$33,000".

Amendment of June 15, 1968

1. Law amending the Article: Act of June 15, 1968, Pub. L. No. 90-340, § 1, 82 Stat. 178, 178 (1968).

2. First codification of the amended Article: 10 U.S.C. § 867 (1964 & Supp. IV 1968).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 867(a) (article 67(a)) of title 10, United States Code, is amended to read as follows:

"(a)(1) There is a United States Court of Military Appeals established under article I of the Constitution of the United States and located for administrative purposes only in the Department of Defense. The court consists of three judges appointed from civil life by the President, by and with the advice and consent of the Senate, for a term of fifteen years. The terms of office of all successors of the judges serving on the effective date of this Act shall expire fifteen years after the expiration of the terms for which their predecessors were appointed, but any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor. Not more than two of the judges of the court may be appointed from the same political party, nor is any person eligible for appointment to the court who is not a member of the bar of a Federal court or the highest court of a State. Each judge is entitled to the same salary and travel allowances as are, and from time to time may be, provided for judges of the United States Court of Appeals, and is eligible for reappointment. The President shall designate from time to time one of the judges to act as chief judge. The chief judge shall have precedence according to seniority in age. The court may prescribe its own rules of procedure and determine the number of judges required to constitute a quorum. A vacancy in the court does not impair the right of the remaining judges to exercise the powers of the court.

"(2) Judges of the United States Court of Military Appeals may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, or for mental or physical disability, but for no other cause.

"(3) If a judge of the United States Court of Military Appeals is temporarily unable to perform his duties because of illness or for other disability, the President may designate a

judge of the United States Court of Appeals for the District of Columbia to fill the office for the period of disability.

"(4) Any judge of the United States Court of Military Appeals who is receiving retired pay may become a senior judge, may occupy offices in a Federal building, may be provided with a staff assistant whose compensation shall not exceed the rate prescribed for GS-9 in the General Schedule under section 5332 of title 5, and, with his consent, may be called upon by the chief judge of said court to perform judicial duties with said court for any period or periods specified by such chief judge. A senior judge who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a judge.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(28), 82 Stat. 1342

2. First codification of the amended Article: 10 U.S.C. § 867 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

Sec. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(28) Subsections (b) and (f) of section 867 (article 67) are amended by striking out "board of review" each time it appears and inserting in lieu thereof "Court of Military Review".

Amendment of Dec. 12, 1980

1. Law amending the Article: Defense Officer Personnel Management Act, Pub. L. No. 96-513, § 12(a), 94 Stat. 2835, 3369 (1980).

2. First codification of the amended Article: 10 U.S.C. § 867 (1976 & Supp. IV 1980).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Sec. 12. (a) Section 867(a)(1) (article 67(a)(1)) of title 10, United States Code, is amended by striking out the third sentence.

Amendment of Nov. 20, 1981

1. Law amending the Article: Military Justice Amendments of 1981, Pub. L. No. 97-81, § 5, 95 Stat. 1085, 1088 (1981)

2. First codification of the amended Article: 10 U.S.C. § 867 (1976 & Supp. V 1981).

3. Effective date of the amendment: January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1089 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act.").

4. Text of the amendment:

> Sec. 5. Subsection (c) of section 867 (article 67(c)) is amended to read as follows:
>
> "(c) The accused may petition the Court of Military Appeals for review of a decision of a Court of Military Review within 60 days from the earlier of—,
>
> "(1) the date on which the accused is notified of the decision of the Court of Military Review; or
>
> "(2) the date on which a copy of the decision of the Court of Military Review, after being served on appellate counsel of record for the accused (if any), is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.
>
> The Court of Military Appeals shall act upon such a petition promptly in accordance with the rules of the court.".

Amendment of Oct. 12, 1982

1. Law amending the Article: Act of Oct. 12, 1982, Public L. No. 97-295, § 1(12), 96 Stat. 1287 (1982).

2. First codification of the amended Article: 10 U.S.C. § 867 (1982).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> Section 1. Title 10, United States Code, is amended as follows:
>
> * * *
>
> (12) Section 867 is amended—,
>
> (A) in subsection (d), by striking out "board of review" and substituting "Court of Military Review"; and
>
> (B) in subsection (g), by striking out "Secretary of the Treasury" and substituting "Secretary of Transportation".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, §§ 7(d), 9(a), 10(c)(2), 13(d), 97 Stat. 1393, 1402, 1404, 1406, 1408 (1983).

2. First codification of the amended Article: 10 U.S.C. § 867 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

Sec. 7.* * *

* * *

(d) Section 867(b)(1) (article 67(b)(1)) is amended by striking out "affects a general or flag officer or".

* * *

Sec. 9. (a) Section 867(g) (article 67(g)) is amended—,

(1) by striking out " The Court of Military Appeals" and all that follows through "and report" and inserting in lieu thereof "(1) A committee consisting of the judges of the Court of Military Appeals, the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, the Director, Judge Advocate Division, Headquarters, United States Marine Corps, and two members of the public appointed by the Secretary of Defense shall meet at least annually. The committee shall make an annual comprehensive survey of the operation of this chapter. After each such survey, the committee shall report";

(2) by adding at the end thereof the following:

"(2) Each member of the committee appointed by the Secretary of Defense shall be a recognized authority in military justice or criminal law. Each such member shall be appointed for a term of three years.

"(3) The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee.".

* * *

Sec. 10. * * *

* * *

(c)* * *

* * *

(2) Section 867 (article 67) is amended by adding at the end thereof the following new subsection:

"(h)(1) Decisions of the Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28. The Supreme Court may not review by a writ of certiorari under such section any action of the Court of Military Appeals in refusing to grant a petition for review.

"(2) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.".

* * *

Sec. 13.

* * *

(d) Section 867(a)(3) (article 67(a)(3)) is amended by inserting "Circuit" after "District of Columbia".

Amendment of Apr. 21, 1987

1. Law amending the Article: Defense Technical Corrections Act of 1987, § 7(a)(2), Pub. L. No. 100-26, 101 Stat. 273 (1987).

2. First codification of the amended Article: 10 U.S.C. § 867 (1982 & Supp. V 1987).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 7. TECHNICAL AND CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

* * *

(a) TECHNICAL AND CLARIFYING AMENDMENTS. —Title 10, United States Code, is amended as follows:

* * *

(2) Section 867(g)(1) is amended by striking out "the Director, Judge Advocate Division, Headquarters, United States Marine Corps" and inserting in lieu thereof "the Staff Judge Advocate to the Commandant of the Marine Corps".

Amendment of Sept. 29, 1988

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1989, Pub. L. No. 100-456, § 722(a), (c), 102 Stat. 1918, 2002-03 (1988).

2. First codification of the amended Article: 10 U.S.C. § 867 (1988).

3. Effective date of amendment: *See* Pub. L. No. 100-456, § 722(d), 102 Stat. at 2003 ("Subsection (i) of section 867 of title 10, United States Code, as added by subsection (a), shall apply with respect to judges of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] whose term of service on such court ends on or after the date of the enactment of this Act [Sept. 29, 1988] and to the survivors of such judges.").

4. Text of the amendment:

SEC. 722. ANNUITIES FOR JUDGES OF UNITED STATES COURT OF MILITARY APPEALS

(a) IN GENERAL. —Section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(i)(1) A judge of the United States Court of Military Appeals who is separated from civilian service in the Federal Government after completing the term of service for which he was appointed as a judge of the court is eligible for an annuity under this subsection. An individual who is a former judge of the court who is separated from civilian service in the Federal Government and who completed the term of service on the court for which he was appointed is eligible for an annuity under this subsection. A judge or former judge who is eligible for an annuity under this subsection shall be paid that annuity if he elects, at the time he becomes eligible to receive that annuity, to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

"(2) The annuity of a judge or former judge under this subsection is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the judge or former judge is separated from civilian service.

"(3) Nothing in this subsection affects any right of a judge or former judge to participate in the thrift savings plan under subchapter III of chapter 84 of title 5.

"(4) The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of judges and former judges who receive an annuit under this subsection. That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuit paid the judge or former judge as a condition for the annuity. An election by a judge or former judge to receive an annuity under this subsection terminates any right or interest which any individual may have to be an annuity under any other retirement system for civilian employees of the Federal Government based on the service of the judge or former judge.

"(5) The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this subsection in order to take account of changes in the cost of living. The Secretary shall prescribe by regulation procedures for increases in annuities under this subsection. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

"(6) A retired judge or former judge of the court who is receiving an annuity under this subsection and who is appointed to a position in the Federal Government shall, during the period of such retired judge's or former judge's service in such position, be entitled to receive only the annuity under this subsection or the pay for that position, whichever is paid at the higher rate. 4"(7) A retired judge or former judge who is entitled to an annuity

under this subsection and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retired from that office, or from regular active service in that office, shall be paid either (A) the annuity under this subsection, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by the judge or former judge at the time of such retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

"(8) Annuities and survivor annuities paid under this subsection shall be paid out of the Department of Defense Military Retirement Fund.".

* * *

(c) TECHNICAL AMENDMENT. —Section 867(a)(4) of title 10, United States Code, is amended by inserting "or an annuity under subsection (i) or subchapter III of chapter 83 or chapter 84 of title 5" after "retired pay" both places it appears.

Amendment of Nov. 29, 1989

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(a), 103 Stat. 1352, 1569 (1989).

2. First codification of the amended Article: 10 U.S.C. § 867 (1988 & Supp. I 1989).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1301. COURT OF MILITARY APPEALS

(a) REVIEW BY THE COURT UNDER ARTICLE 67.—Section 867 (article 67) of title 10, United States Code, is amended—

(1) by striking out subsections (a), (g), (h), and (i); and

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (a), (b), (c), (d), and (e) respectively.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §§ 924(c)(1), (2), (4)(B), 108 Stat. 2663, 2832 (1994).

2. First codification of the amended Article: 10 U.S.C. § 867 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

* * *

(4)* * *

* * *

(B) The heading of section 867 is amended to read as follows:

"§ 867. Art. 67. Review by the Court of Appeals for the Armed Forces".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5331, 130 Stat. 2000, 2934 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 867 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2967 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5331. REVIEW BY COURT OF APPEALS FOR THE ARMED FORCES.

(a) JAG NOTIFICATION.—Subsection (a)(2) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by inserting after "the Judge Advocate General" the following: ", after appropriate notification to the other Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps,".

(b) BASIS FOR REVIEW.—Subsection (c) of such section (article) is amended—

(1) by inserting "(1)" after "(c)";

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the fourth sentence as paragraph (4); and

(5) in paragraph (1), as designated by paragraph (1) of this subsection, by striking "only with respect to" and all that follows through the end of the sentence and inserting "only with respect to—

"(A) the findings and sentence set forth in the entry of judgment, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals; or

"(B) a decision, judgment, or order by a military judge, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals.".

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 542(c), 134 Stat. 3388, 3612 (2021).

2. First codification of the amended Article: 10 U.S.C. § 867 (Supp. II 2020).

3. Effective date of the amendment: January 1, 2021. *See* Pub. L. No. 116-283, § 542(e)(2), 134 Stat. at 3613 ("The amendments made by subsections (b) and (c) shall take effect on the date of the enactment of this Act, and shall apply with respect to any case in which every finding of guilty entered into the record under section 860c of title 10, United States Code (article 60c of the Uniform Code of Military Justice), is for an offense that occurred on or after that date.).

4. Text of the amendment:

SEC. 542. QUALIFICATIONS OF JUDGES AND STANDARD OF REVIEW FOR COURTS OF CRIMINAL APPEALS.

* * *

(c) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES OF FACTUAL SUFFICIENCY RULINGS.—Section 867(c)(1) of title 10, United States Code (article 67(c)(1) of the Uniform Code of Military Justice), is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) the findings set forth in the entry of judgment, as affirmed, dismissed, set aside, or modified by the Court of Criminal Appeals as incorrect in fact under section 866(d)(1)(B) of this title (article 66(d)(1)(B)).".

Art. 67a, 10 U.S.C. § 867a—Review by the Supreme Court

Congress enacted Art. 67a on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(b), 103 Stat. 1352, 1569 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 867a (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 67a since 1989 appears below.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 867a (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.
>
> ***
>
> (c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:
>
> (1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * * 867a(a), [and other listed sections]* * *.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5332, 130 Stat. 2000, 2935 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 867a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5332. SUPREME COURT REVIEW.

The second sentence of section 867a(a) of title 10, United States Code (article 67a(a) of the Uniform Code of Military Justice), is amended by inserting before "Court of Appeals" the following: "United States".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 533(a)(2), 137 Stat. 136, 261 (2023).

2. First codification of the amended Article: 10 U.S.C. § 867a (Supp. V 2023).

3. Effective date of the amendment: Dec. 22, 2024. *See* Pub. L. 118-31, § 533(b)(1), 137 Stat. at 261 ("The amendments made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act and shall apply with respect to any action of the United States Court of Appeals for the Armed Forces in granting or refusing to grant a petition for review submitted to such Court for the first time on or after such effective date."); *see also id.* §§ 533(b)(2)-(3) (addressing application of the amendment to pending decisions and the finality of decisions).

4. Text of the amendment:

SEC. 533. SUPREME COURT REVIEW OF CERTAIN ACTIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—

* * *

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) TITLE 10.—Section 867a(a) of title 10, United States Code (article 67a of the Uniform Code of Military Justice), is amended by striking "The Supreme Court may not review by a writ of certiorari under this section any action of the United States Court of Appeals for the Armed Forces in refusing to grant a petition for review.".

Art. 68, 10 U.S.C. § 868—Branch offices

Congress created Art. 68 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 130 (1950). Art. 68 originally was codified at 50 U.S.C. § 655 (1952). In 1956, as shown below, Congress directed that Art. 68 be re-codified at 10 U.S.C. § 868. Information about amendments to Art. 68 since 1950 appears below.

Amendment of Aug. 10, 1956

1. *Law amending the Article*: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 61 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 868 (Supp. IV 1956).

3. *Effective date of the amendment*: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. *Summary of the amendment*: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "considers" is substituted for the word "deems". The word "may" is substituted for the words "shall be empowered to". The word "respective" is inserted for clarity.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(29), 82 Stat. 1335, 1342 (1968).

2. First codification of the amended Article: 10 U.S.C. § 868 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (29) Section 868 (article 68) is amended to read as follows:
>
> "§ 868. Art. 68. Branch offices
>
> "The Secretary concerned may direct the Judge Advocate General to establish a branch office with any command. The branch office shall be under an Assistant Judge Advocate General who, with the consent of the Judge Advocate General, may establish a Court of Military Review with one or more panels. That Assistant Judge Advocate General and any Court of Military Review established by him may perform for that command under the general supervision of the Judge Advocate General, the respective duties which the Judge Advocate and a Court of Military Review established by the Judge Advocate General would otherwise be required to perform as to all cases involving sentences not requiring approval by the President."

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 868 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.
>
> * * *
>
> (c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections * * *868, [and other listed sections]* * *.

Art. 69, 10 U.S.C. § 869—Review by Judge Advocate General

Congress created Art. 69 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 130 (1950). Art. 69 originally was codified at 50 U.S.C. § 656 (1952). In 1956, as shown below, Congress directed that Art. 69 be re-codified at 10 U.S.C. § 869. Information about amendments to Art. 69 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 61 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 869 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the word "will". The word "under" is substituted for the words "pursuant to the provisions of".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(30), 82 Stat. 1335, 1342 (1968).

2. First codification of the amended Article: 10 U.S.C. § 869 (1964 & Supp. IV 1968).

3. Effective date of the amendment: Oct. 24, 1968. *See* Pub. L. No. 90-632, § 4(b), 82 Stat. at 1343 ("The amendment made by paragraph (30) of section 2 shall become effective upon the date of enactment of this Act.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (30) Section 869 (article 69) is amended by adding the following new sentence at the end thereof: "Notwithstanding section 867 of this title (article 76), the findings or sentence, or both, in a court-martial case which has been finally reviewed, but has not been reviewed by a Court of Military Review may be vacated or modified, in whole or in part, by the Judge Advocate General on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused."

Amendment of Nov. 20, 1981

1. Law amending the Article: Military Justice Amendments of 1981, Pub. L. No. 97-81, § 6, 95 Stat. 1085, 1089 (1981)

2. First codification of the amended Article: 10 U.S.C. § 869 (1976 & Supp. V 1981).

3. Effective date of the amendment: January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1089 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act.").

4. Text of the amendment:

> TIME LIMITS ON APPLICATIONS TO JUDGE ADVOCATES GENERAL
>
> Sec. 6. Section 869 (article 69) is amended by adding at the end thereof the following new sentence: "When such a case is considered upon application of the accused, the application must be filed in the Office of the Judge Advocate General by the accused before—,
>
> "(1) October 1, 1983; or
>
> "(2) the last day of the two-year period beginning on the date the sentence is approved by the convening authority or, in a special court-martial case which requires action under section 865(b) of this title (article 65(b)), the officer exercising general court-martial jurisdiction, whichever is later, unless the accused establishes good cause for failure to file within that time.".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 7(e)(1), 97 Stat. 1393, 1402 (1983).

2. First codification of the amended Article: 10 U.S.C. § 869 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.")

4. Text of t(e)(1) The text of section 869 (article 69) // 10 USC 869. // is amended to read as follows:

> REVIEW OF COURTS-MARTIAL AND RELATED MATTERS
>
> Sec. 7.* * *
>
> * * *
>
> (e)(1) The text of section 869 (article 69) // 10 USC 869. // is amended to read as follows:
>
> "(a) The record of trial in each general court-martial that is not otherwise reviewed under section 866 of this title (article 66) // 10 USC 866. // shall be examined in the office of the Judge Advocate General if there is a finding of guilty and the accused does not waive or withdraw his right to appellate review under section 861 of this title (article 61). If any part of the findings or sentence is found to be unsupported in law or if reassessment of the sentence is appropriate, the Judge Advocate General may modify or set aside the findings or sentence or both. If the Judge Advocate General so directs, the record shall be reviewed by a Court of Military Review under section 866 of this title (article 66), // 10 USC 866. // but in that event there may be no further review by the Court of Military Appeals except under section 867(b)(2) of this title (article 67(b)(2)). // 10 USC 867. //
>
> "(b) The findings or sentence, or both, in a court-martial case not reviewed under subsection (a) or under section 866 of this title (article 66) may be modified or set aside, in whole or in part, by the Judge Advocate General on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence. If such a case is considered upon application of the accused, the application must be filed in the office of the Judge Advocate General by the accused on or before the last day of the two-year period beginning on the date the sentence is approved under section 860(c) of this title (article 60(c)), unless the accused establishes good cause for failure to file within that time.
>
> "(c) If the Judge Advocate General sets aside the findings or sentence, he may, except when the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed. If the Judge Advocate General orders a rehearing but the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges.".

Amendment of Nov. 29, 1989

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, §§ 1302(a), 1304(b)(1), 103 Stat. 1352, 1576-77 (1989).

2. First codification of the amended Article: 10 U.S.C. § 869 (1988 & Supp. I 1989).

3. Effective date of the amendment: For the effective date of the amendment made by Pub. L. No. 101-189, § 1302(a), see Pub. L. No. 101-189, § 1302(b), 103 Stat. at 1576 (Subsection (e) of section 869 of title 10, United States Code, as added by subsection (a), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.). The effective date of the amendment made by Pub. L. No. 101-189, § 1304(b)(1) is not specified.

4. Text of the amendment:

SEC. 1302. APPELLATE REVIEW OF ARTICLE 69 ACTIONS

(a) REVIEW.—Section 869 (article 69) of title 10, United States Code, is amended—

(1) in subsection (a), by striking out the third sentence; and

(2) by adding at the end the following:

"(d) A Court of Military Review may review, under section 866 of this title (article 66)—

"(1) any court-martial case which (A) is subject to action by the Judge Advocate General under this section, and (B) is sent to the Court of Military Review by order of the Judge Advocate General; and

"(2) any action taken by the Judge Advocate General under this section in such case.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court may take action only with respect to matters of law.".

* * *

SEC. 1304. TECHNICAL AND CONFORMING AMENDMENTS

* * *

(b) CONFORMING AMENDMENTS.—

(1) Section 869(a) (article 69(a)) of title 10, United States Code, is amended by striking out "section 867(b)(2) of this title (article 67(b)(2))" in the third sentence and inserting in lieu thereof "section 867(a)(2) of this title (article 67(a)(2))".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 869 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections * * * 869 [and other listed sections] * * *.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5333, 130 Stat. 2000, 2935 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 869 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5333. REVIEW BY JUDGE ADVOCATE GENERAL.

Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended to read as follows:

§ 869. Art. 69. Review by Judge Advocate General

"(a) IN GENERAL.—Upon application by the accused and subject to subsections (b), (c), and (d), the Judge Advocate General may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under section 866 of this title (article 66).

"(b) TIMING.—To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than one year after the date of completion of review under section 864 or 865 of this title (article 64 or 65), as the case may be. The Judge Advocate General may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three years after such completion date.

"(c) SCOPE.—(1)(A) In a case reviewed under section 864 or 865(b) of this title (article 64 or 65(b)), the Judge Advocate General may set aside the findings or sentence, in whole

or in part on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.

"(B) In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

"(C) If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

"(D) If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.

"(2) In a case reviewed under section 865(b) of this title (article 65(b)), review under this section is limited to the issue of whether the waiver or withdrawal of an appeal was invalid under the law. If the Judge Advocate General determines that the waiver or withdrawal of an appeal was invalid, the Judge Advocate General shall order appropriate corrective action under rules prescribed by the President.

"(d) COURT OF CRIMINAL APPEALS.—(1) A Court of Criminal Appeals may review the action taken by the Judge Advocate General under subsection (c)—

"(A) in a case sent to the Court of Criminal Appeals by order of the Judge Advocate General; or

"(B) in a case submitted to the Court of Criminal Appeals by the accused in an application for review.

"(2) The Court of Criminal Appeals may grant an application under paragraph (1)(B) only if—

"(A) the application demonstrates a substantial basis for concluding that the action on review under subsection (c) constituted prejudicial error; and

"(B) the application is filed not later than the earlier of—

"(i) 60 days after the date on which the accused is notified of the decision of the Judge Advocate General; or

"(ii) 60 days after the date on which a copy of the decision of the Judge Advocate General is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.

"(3) The submission of an application for review under this subsection does not constitute a proceeding before the Court of Criminal Appeals for purposes of section 870(c)(1) of this title (article 70(c)(1)).

"(e) ACTION ONLY ON MATTERS OF LAW.—Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Criminal Appeals under subsection (d), the Court may take action only with respect to matters of law.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(L), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 869 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.
>
> * * *
>
> (c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—
>
> (1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:
>
> * * *
>
> (L) Section 869(c)(1)(A) (article 69(c)(1)(A)), as amended by section 5333 of the Military Justice Act of 2016 (130 Stat. 2935), is further amended by inserting a comma after "in part".

Amendment of Dec. 23, 2022

1. Law amending the Article: James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117-263, § 544(b), 136 Stat 2395, 2582 (2022).

2. First codification of the amended Article: 10 U.S.C. § 869 (Supp. IV 2022).

3. Effective date of the amendment: "The amendments made by this section shall not apply to—(1) any matter that was submitted before the date of the enactment of this Act to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice); or (2) any matter that was submitted before the date of the enactment of this Act to a Judge Advocate General under section 869 of such title (article 69 of the Uniform Code of Military Justice)." Pub. L. No. 117-263, § 544(d), 136 Stat. at 2584.

4. Text of the amendment:

> SEC. 544. JURISDICTION OF COURTS OF CRIMINAL APPEALS.
>
> * * *
>
> (c) REVIEW BY JUDGE ADVOCATE GENERAL.—Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—Upon application by the accused or receipt of the record pursuant to section 864(c)(3) of this title (article 64(c)(3)) and subject to subsections (b), (c), and (d), the Judge Advocate General may—

"(1) with respect to a summary court-martial, modify or set aside, in whole or in part, the findings and sentence; or

"(2) with respect to a general or special court-martial, order such court-martial to be reviewed under section 866 of this title (article 66)."; and

(2) in subsection (b)—

(A) by inserting "(1)" before "To qualify"; and

(B) by striking "not later than one year after" and all that follows through the period at the end and inserting the following: "not later than—

"(A) for a summary court-martial, one year after the date of completion of review under section 864 of this title (article 64); or

"(B) for a general or special court-martial, one year after the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c) of this title (article 65(c)), unless the accused submitted a waiver or withdrawal of appellate review under section 861 of this title (article 61) before being provided notice of appellate rights, in which case the application must be submitted to the Judge Advocate General not later than one year after the entry of judgment under section 860c of this title (article 60c).

"(2) The Judge Advocate General may, for good cause shown, extend the period for submission of an application, except that—

"(A) in the case of an application for review of a summary court martial, the Judge Advocate may not consider an application submitted more than three years after the completion date referred to in paragraph (1)(A); and

"(B) in case of an application for review of a general or special court-martial, the Judge Advocate may not consider an application submitted more than three years after the end of the applicable period under paragraph (1)(B).";

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking "section 864 or 865(b) of this title (article 64 or 65(b))" and inserting "section 864 of this title (article 64)"; and

(B) in paragraph (2), by striking "the Judge Advocate General shall order appropriate corrective action under rules prescribed by the President" and inserting "the Judge Advocate General shall send the case to the Court of Criminal Appeals"; and

(4) in subsection (d)—

(A) in paragraph (1), by striking "under subsection (c)—" and all that follows through "(B) in a case submitted" and inserting "under subsection (c)(1) in a case submitted"; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking "paragraph (1)(B)" and inserting "paragraph (1)".

Art. 70, 10 U.S.C. § 870—Appellate counsel

Congress created Art. 70 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 130 (1950). Art. 70 originally was codified at 50 U.S.C. § 657 (1952). In 1956, as shown below, Congress directed that Art. 70 be re-codified at 10 U.S.C. § 870. Information about amendments to Art. 70 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 62 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 870 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "detail" is substituted for the word "appoint", since the filling of the position involved is not appointment to an office in the constitutional sense. The word "commissioned" is inserted for clarity. The word "are" is substituted for the words "shall be". The words "the provisions of" are omitted as surplusage.
>
> In subsections (b) and (c), the word "shall" is substituted for the words "It shall be the duty of * * * to".
>
> In subsection (c) (3), the word "sent" is substituted for the word "transmitted".
>
> In subsection (d), the word "has" is substituted for the words "shall have".
>
> In subsection (e), the word "directs" is substituted for the words "shall direct".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(31), 82 Stat. 1335, 1342 (1968).

2. First codification of the amended Article: 10 U.S.C. § 870 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(31) Subsections (b), (c), and (d) of section 870 (article 70) are amended by striking out "board of review" each time it appears and inserting in lieu thereof "Court of Military Review".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 10(c)(3), 97 Stat. 1393, 1406 (1983).

2. First codification of the amended Article: 10 U.S.C. § 870 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

Sec. 10. * * *

* * *

(c) * * *

* * *

(3)(A) Section 870(b) (article 70(b)) is amended by adding at the end thereof the following new sentence: " Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.".

(B) Subsections (c) and (d) of such section are amended to read as follows:

"(c) Appellate defense counsel shall represent the accused before the Court of Military Review, the Court of Military Appeals, or the Supreme Court—,

"(1) when requested by the accused;

"(2) when the United States is represented by counsel; or

"(3) when the Judge Advocate General has sent the case to the Court of Military Appeals.

"(d) The accused has the right to be represented before the Court of Military Review, the Court of Military Appeals, or the Supreme Court by civilian counsel if provided by him.".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §§ 924(c)(1), (2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 870 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.
>
> * * *
>
> (c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:
>
> (1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).
>
> (2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections * * * 870, [and other listed sections]* * *.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5334, 130 Stat. 2000, 2936 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 870 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5334. APPELLATE DEFENSE COUNSEL IN DEATH PENALTY CASES.
>
> Section 870 of title 10, United States Code (article 70 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(f) To the greatest extent practicable, in any capital case, at least one defense counsel under subsection (c) shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.".

Art. 71, 10 U.S.C. § 871—Repealed (formerly Execution of sentence; suspension of sentence)

Congress created Art. 71 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 131 (1950). Art. 71 originally was codified at 50 U.S.C. § 658 (1952). As shown below, in 1956 Congress directed that Art. 71 be re-codified at 10 U.S.C. § 871, and in 2016 Congress repealed Art. 71. Information about amendments to Art. 71 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 62 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 871 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "may" is substituted for the word "shall".
>
> In subsection (b), the word "commissioned" is inserted for clarity. The word "may" is substituted for the word "shall" in the first sentence. The words "Secretary concerned" are substituted for the words "Secretary of the Department". The words "who is" are omitted as surplusage.
>
> In subsection (c), the word "may" is substituted for the word "shall".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(32), 82 Stat. 1335, 1342 (1968).

2. First codification of the amended Article: 10 U.S.C. § 871 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

* * *

(32) Section 871 (article 71) is amended—

(A) by striking out "Board of review" in subsection (c) and inserting in lieu thereof "Court of Military Review"; and (B) by inserting "or deferred" in the first sentence of subsection (d) immediately after "suspended".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(e), 97 Stat. 1393, 1399 (1983).

2. First codification of the amended Article: 10 U.S.C. § 871 (1988).

3. Effective date of amendment: *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . ."); *Id.* § 12(a)(4), 97 Stat. at 1407 ("The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.").

4. Text of the amendment:

RIGHT TO APPEAL AND RELATED MATTERS

Sec. 5.

* * *

(e) Section 871 (article 71) is amended—,

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit. That part of the sentence providing for death may not be suspended.";

(2) in subsection (b), by striking out the first and second sentences and inserting in lieu thereof the following: "If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as he sees fit."; and

(3) by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) If a sentence extends to death, dismissal, or a dishonorable or bad-conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn, under section 861 of this title (article 61), that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death or dismissal, approval under subsection (a) or (b), as appropriate). A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Military Review and—,

"(A) the time for the accused to file a petition for review by the Court of Military Appeals has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

"(B) such a petition is rejected by the Court of Military Appeals; or

"(C) review is completed in accordance with the judgment of the Court of Military Appeals and—,

"(i) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

"(ii) such a petition is rejected by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(2) If a sentence extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn, under section 861 of this title (article 61), that part of the sentence extending to dismissal or a bad—, conduct or dishonorable discharge may not be executed until review of the case by a judge advocate (and any action on that review) under section 864 of this title (article 64) is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section 860 of this title (article 60) when approved by him under that section.

"(d) The convening authority or other person acting on the case under section 860 of this title (article 60) may suspend the execution of any sentence or part thereof, except a death sentence.".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), (2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 871 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1702(c)(2), 127 Stat. 672, 957 (2013).

2. First codification of the amended Article: 10 U.S.C. § 871 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

* * *

(c) CONFORMING AMENDMENTS.—

* * *

(2) OTHER AUTHORITY FOR CONVENING AUTHORITY TO SUSPEND SENTENCE.—Section 871(d) of such title (article 71(d) of the Uniform Code of Military Justice) is amended by adding at the end the following new sentence: "Paragraphs (2) and (4) of subsection (c) of section 860 of this title (article 60) shall apply to any decision by the convening authority or another person authorized to act under this section to suspend the execution of any sentence or part thereof under this subsection.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5302(b)(2), 130 Stat. 2000, 2923 (2016).)

2. First codification of the amended Article: 10 U.S.C. § 871 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to

the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5302. EFFECTIVE DATE OF SENTENCES.
>
> * * *
>
> (b) CONFORMING AMENDMENTS.—
>
> * * *
>
> (2) Subchapter IX of chapter 47 of title 10, United States Code, is amended by striking section 871 (article 71 of the Uniform Code of Military Justice).

Art. 72, 10 U.S.C. § 872—Vacation of suspension

Congress created Art. 72 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 131 (1950). Art. 72 originally was codified at 50 U.S.C. § 659 (1952). In 1956, as shown below, Congress directed that Art. 72 be re-codified at 10 U.S.C. § 872. Information about amendments to Art. 72 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 63 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 872 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "Before" is substituted for the words "Prior to".
>
> In subsection (b), the words "be effective * * * to" are omitted as surplusage.
>
> The second sentence is restated to make it clear that the execution of the rest of the court-martial sentence is not automatic. The word "is" is substituted for the words "shall * * * be" in the last sentence. The word "sent" is substituted for the word "forwarded". The words "Secretary concerned" are substituted for the words "Secretary of the Department".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5335, 130 Stat. 2000, 2936 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 872 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5335. AUTHORITY FOR HEARING ON VACATION OF SUSPENSION OF SENTENCE TO BE CONDUCTED BY QUALIFIED JUDGE ADVOCATE.
>
> (a) IN GENERAL.—Subsection (a) of section 872 of title 10, United States Code (article 72 of the Uniform Code of Military Justice), is amended by inserting after the first sentence the following new sentence: "The special court-martial convening authority may detail a judge advocate, who is certified under section 827(b) of this title (article 27(b)), to conduct the hearing.".
>
> (b) TECHNICAL AMENDMENTS.—Such section (article) is further amended—
>
> (1) in the last sentence of subsection (a), by striking "if he so desires" and inserting "if the probationer so desires"; and
>
> (2) in the second sentence of subsection (b)—
>
> (A) by striking "If he" and inserting "If the officer exercising general court-martial jurisdiction"; and
>
> (B) by striking "section 871(c) of this title (article 71(c))" and inserting "section 857 of this title (article 57)".

Art. 73, 10 U.S.C. § 873—Petition for a new trial

Congress created Art. 73 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 132 (1950). Art. 73 originally was codified at 50 U.S.C. § 660 (1952). In 1956, as shown below, Congress directed that Art. 73 be re-codified at 10 U.S.C. § 873. Information about amendments to Art. 73 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 63 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 873 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "the ground" are substituted for the word "grounds". The words "as the case may be" are substituted for the word "respectively", since the prescribed action is alternative, not distributive.

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(33), 82 Stat. 1335, 1342 (1968).

2. First codification of the amended Article: 10 U.S.C. § 873 (1964 & Supp. IV 1968).

3. Effective date of the amendment: October 23, 1970. *See* Pub. L. No. 90-632, § 4(c), 82 Stat. at 1343 ("The amendment made by paragraph (33) of section 2 shall apply in the case of all court-martial sentences approved by the convening authority on or after, or not more than two years before, the date of its enactment.").

4. Text of the amendment:

> SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (33) Section 873 (article 73) is amended to read as follows:
>
> "§ 873. Art. 73. Petition for a new trial
>
> "At any time within two years after approval by the convening authority of a court-martial sentence, the accused may petition the Judge Advocate General for a new trial on the grounds of newly discovered evidence or fraud on the court. If the accused's case is pending before a Court of Military Review or before the Court of Military Appeals, the Judge Advocate General shall refer the petition to the appropriate court for action. Otherwise the Judge Advocate General shall act upon the petition.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), (2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 873 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.
>
> * * *
>
> (c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:
>
> (1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *870, [and other listed sections]* * *.
>
> (2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections * * *870, [and other listed section]* * *.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5336, 130 Stat. 2000, 2937 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 873 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5336. EXTENSION OF TIME FOR PETITION FOR NEW TRIAL.
>
> The first sentence of section 873 of title 10, United States Code (article 73 of the Uniform Code of Military Justice), is amended by striking "two years after approval by the

convening authority of a court-martial sentence" and inserting "three years after the date of the entry of judgment under section 860c of this title (article 60c)".

Art. 74, 10 U.S.C. § 874—Remission and suspension

Congress created Art. 74 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 132 (1950). Art. 74 originally was codified at 50 U.S.C. § 661 (1952). In 1956, as shown below, Congress directed that Art. 74 be re-codified at 10 U.S.C. § 874. Information about amendments to Art. 74 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 63 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 874 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsections (a) and (b), the words "Secretary concerned" are substituted for the words "Secretary of the Department".

Amendment of Oct. 30, 2000

1. Law amending the Article: *1. Law amending the Article*: Floyd D. Spencer National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, § 553(a), 114 Stat. 1654, 1654A-125 (2000).

2. First codification of the amended Article: 10 U.S.C. § 874 (2000).

3. Effective date of the amendment: *See* Pub. L. No. 106-398, § 553(b), 114 Stat. at 1654A-125 ("The amendment made by subsection (a) shall not apply with respect to a sentence of confinement for life without eligibility for parole that is adjudged for an offense committed before the date of the enactment of this Act [Oct. 30, 2000].").

4. Text of the amendment:

> SEC. 553. LIMITATION ON SECRETARIAL AUTHORITY TO GRANT CLEMENCY FOR MILITARY PRISONERS SERVING SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.
>
> (a) LIMITATION.—Section 874(a) of title 10, United States Code (article 74(a) of the Uniform Code of Military Justice), is amended by adding at the end the following new

sentence: "However, in the case of a sentence of confinement for life without eligibility for parole, after the sentence is ordered executed, the authority of the Secretary concerned under the preceding sentence (1) may not be delegated, and (2) may be exercised only after the service of a period of confinement of not less than 20 years.".

Amendment of Dec. 28, 2001

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, § 1048(a)(8), 115 Stat. 1012, 1223 (2001).

2. First codification of the amended Article: 10 U.S.C. § 874 (Supp. I 2001).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1048. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(8) Section 874(a) is amended by inserting after "a sentence of confinement for life without eligibility for parole" the following: "that is adjudged for an offense committed after October 29, 2000".

Art. 75, 10 U.S.C. § 875—Restoration

Congress created Art. 75 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 132 (1950). Art. 75 originally was codified at 50 U.S.C. § 662 (1952). In 1956, as shown below, Congress directed that Art. 75 be re-codified at 10 U.S.C. § 875. Information about amendments to Art. 75 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 63 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 875 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsections (b) and (c), the word "If" is substituted for the word "Where". The word "imposed" is substituted for the word "sustained". The words "Secretary concerned" are substituted for the words "Secretary of the Department".

In subsection (c), the word "issue" is substituted for the word "issuance". The word "commissioned" is inserted for clarity. The words "grade and with such rank" are substituted for the words "rank and precedence", since a person is appointed to a grade, not a position of precedence, and the word "rank" is the accepted military word denoting the general idea of precedence. The words "the existence of a" are substituted for the word "position". The word "receive" is omitted as surplusage.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5337, 130 Stat. 2000, 2937 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 875 (2018).

3. Effective date of the amendment: J The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5337. RESTORATION.

Section 875 of title 10, United States Code (article 75 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(d) The President shall prescribe regulations, with such limitations as the President considers appropriate, governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.".

Art. 76, 10 U.S.C. § 876—Finality of proceedings, findings, and sentences

Congress created Art. 76 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 132 (1950). Art. 76 originally was codified at 50 U.S.C. § 626 (1952). In 1956, as shown below, Congress directed that Art. 76 be re-codified at 10 U.S.C. § 876. Information about amendments to Art. 76 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 64 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 876 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "under" Is substituted for the words "pursuant to". The word "are" is substituted for the words "shall be". The words "Secretary concerned" are substituted for the words "Secretary of a Department".

Art. 76a, 10 U.S.C. § 876a—Leave required to be taken pending review of certain court-martial

Congress created Art. 76a on Nov. 20, 1981, in the Military Justice Amendments of 1981, Pub. L. No. 97-81, § 2(c)(1), 95 Stat. 1085, 1087 (1981). It was codified, before subsequent amendment, at 10 U.S.C. § 876a (Supp. V 1981). It became effective on January 19, 1982. *See* Pub. L. No. 97-81, § 7(a), 95 Stat. at 1088 ("The amendments made by this Act shall take effect at the end of the sixty-day period beginning on the date of the enactment of this Act [Nov. 20, 1981].). Information about amendments to Art. 76a since 1981 appears below.

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 5(g), 97 Stat. 1393, 1393 (1983).

2. First codification of the amended Article: 10 U.S.C. § 876a (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

> Sec. 5.
>
> * * *
>
> (g) Section 876a (article 76a) is amended—

(1) by striking out "864 or 865 of this title (article 64 or 65) by the officer exercising general court-martial jurisdiction" and inserting in lieu thereof "860 of this title (article 60)"; and

(2) by striking out "by the officer exercising general courtmartial jurisdiction" in the second sentence and inserting in lieu thereof "under section 860 of this title (article 60)".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5338, 130 Stat. 2000, 2937 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 876a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5338. LEAVE REQUIREMENTS PENDING REVIEW OF CERTAIN COURT-MARTIAL CONVICTIONS.

Section 876a of title 10, United States Code (article 76a of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking ", as approved under section 860 of this title (article 60),"; and

(2) in the second sentence, by striking "on which the sentence is approved under section 860 of this title (article 60)" and inserting "of the entry of judgment under section 860c of this title (article 60c)".

Art. 76b, 10 U.S.C. § 876b—Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment

Congress created Art. 76b on Feb. 10, 1996, in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1133(a)(1), 110 Stat. 464 (1996). It was first codified at 10 U.S.C. § 876b (Supp. II 1996). It became effective on August 1, 1996. *See* Pub. L. No. 104-106, § 1133(c), 110 Stat. at 466 (Section 876b of title 10, United States Code (article 76b of the Uniform Code of Military Justice), as added by subsection (a), shall take effect at the end of the six-month

period [Aug. 1, 1996] beginning on the date of the enactment of this Act [Feb. 10, 1996] and shall apply with respect to charges referred to courts-martial after the end of that period.). Congress has not amended Art. 76b.

Art. 77, 10 U.S.C. § 877—Principals

Congress created Art. 77 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 77 originally was codified at 50 U.S.C. § 671 (1952). In 1956, as shown below, Congress directed that Art. 77 be re-codified at 10 U.S.C. § 877. Information about amendments to Art. 77 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 65 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 877 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows: The Historical and Revision Notes following 10 U.S.C. § 877 (Supp. IV 1956) show no changes to Article 77.

Art. 78, 10 U.S.C. § 878—Accessory after the fact

Congress created Art. 78 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 78 originally was codified at 50 U.S.C. § 672 (1952). In 1956, as shown below, Congress directed that Art. 78 be re-codified at 10 U.S.C. § 878. Information about amendments to Art. 78 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 65 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 878 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 79, 10 U.S.C. § 879—Conviction of offense charged, lesser included offenses, and attempts

Congress created Art. 79 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 79 originally was codified at 50 U.S.C. § 673 (1952). In 1956, as shown below, Congress directed that Art. 79 be re-codified at 10 U.S.C. § 879. Information about amendments to Art. 79 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 65 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 879 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5402, 130 Stat. 2000, 2939 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 879 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5402. CONVICTION OF OFFENSE CHARGED, LESSER INCLUDED OFFENSES, AND ATTEMPTS.

Section 879 of title 10, United States Code (article 79 of the Uniform Code of Military Justice), is amended to read as follows:

§ 879. Art. 79. Conviction of offense charged, lesser included offenses, and attempts

"(a) IN GENERAL.—An accused may be found guilty of any of the following:

"(1) The offense charged.

"(2) A lesser included offense.

"(3) An attempt to commit the offense charged.

"(4) An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

"(b) LESSER INCLUDED OFFENSE DEFINED.—In this section (article), the term 'lesser included offense' means—

"(1) an offense that is necessarily included in the offense charged; and

"(2) any lesser included offense so designated by regulation prescribed by the President.

"(c) REGULATORY AUTHORITY.—Any designation of a lesser included offense in a regulation referred to in subsection (b) shall be reasonably included in the greater offense.".

Art. 80, 10 U.S.C. § 880—Attempts

Congress created Art. 80 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 80 originally was codified at 50 U.S.C. § 674 (1952). In 1956, as shown below, Congress directed that Art. 80 be re-codified at 10 U.S.C. § 880. Information about amendments to Art. 80 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 65 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 880 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the words "even though" are substituted for the word "but" for clarity.

Art. 81, 10 U.S.C. § 881—Conspiracy

Congress created Art. 81 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 81 originally was codified at 50 U.S.C. § 675 (1952). In 1956, as shown below, Congress directed that Art. 81 be re-codified at 10 U.S.C. § 881. Information about amendments to Art. 81 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 66 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 881 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "or persons" are omitted as surplusage, since under section 1 of title 1 words importing the singular may apply to several persons.

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(b), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 881 (2006).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—
>
> (1) by inserting "(a)" before "Any person"; and
>
> (2) by adding at the end the following new subsection:
>
> "(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if

death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

Art. 82, 10 U.S.C. § 882—Soliciting commission of offenses

Congress created Art. 82 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 82 originally was codified at 50 U.S.C. § 676 (1952). In 1956, as shown below, Congress directed that Art. 82 be re-codified at 10 U.S.C. § 882. Information about amendments to Art. 82 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 66 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 882 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5403, 130 Stat. 2000, 2939 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 882 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in specified in § 5542).

4. Text of the amendment:

SEC. 5403. SOLICITING COMMISSION OF OFFENSES.

Section 882 of title 10, United States Code (article 82 of the Uniform Code of Military Justice), is amended to read as follows:

§ 882. Art. 82. Soliciting commission of offenses

"(a) SOLICITING COMMISSION OF OFFENSES GENERALLY.—Any person subject to this chapter who solicits or advises another to commit an offense under this chapter (other than an offense specified in subsection (b)) shall be punished as a court-martial may direct.

"(b) SOLICITING DESERTION, MUTINY, SEDITION, OR MISBEHAVIOR BEFORE THE ENEMY.—Any person subject to this chapter who solicits or advises another to violate section 885 of this title (article 85), section 894 of this title (article 94), or section 99 of this title (article 99)—

"(1) if the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

"(2) if the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(M), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 882 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of 114-328), is Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law further amended as follows:

* * *

(M) Section 882(b) (article 82(b)), as amended by section 5403 of the Military Justice Act of 2016 (130 Stat. 2939), is further amended by striking "section 99" and inserting "section 899".

Art. 83 (formerly Art. 115), 10 U.S.C. § 883—Malingering

Congress created Art. 115 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 139 originally was codified at 50 U.S.C. § 709 (1952). As shown below, in 1956 Congress

directed that Art. 115 be re-codified at 10 U.S.C. § 915, and in 2016 Congress renumbered Art. 115 as Art. 83 and re-codified the article at 10 U.S.C. § 883. Information about amendments to the Article since 1950 appears below. For information about the former Article 83, see Article 104a.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 66 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 915 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5404, 130 Stat. 2000, 2940 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 883 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in specified in § 5542).

4. Text of the amendment:

> SEC. 5404. MALINGERING.
>
> Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 882 (article 82 of the Uniform Code of Military Justice), as amended by section 5403 of this Act, the following new section (article):
>
> § 883. Art. 83. Malingering
>
> Any person subject to this chapter who, with the intent to avoid work, duty, or service—
>
> "(1) feigns illness, physical disablement, mental lapse, or mental derangement; or
>
> "(2) intentionally inflicts self-injury;
>
> shall be punished as a court-martial may direct.".

[Former Art. 84, 10 U.S.C. § 884—Unlawful enlistment, appointment, or separation]

This Article was moved and renumbered. For the details, see the entry for Art. 104b.

Art. 84, 10 U.S.C. § 884—Breach of medical quarantine

Congress created a new version of Art. 84 in the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5405, 130 Stat. 2000, 2940 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 884 (2018). It became effective on Jan. 1, 2019. See Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019.").

Art. 85, 10 U.S.C. § 885—Desertion

Congress created Art. 85 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 85 originally was codified at 50 U.S.C. § 679 (1952). In 1956, as shown below, Congress directed that Art. 85 be re-codified at 10 U.S.C. § 885. Information about amendments to Art. 85 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 67 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 885 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the word "unit" is substituted for the words "place of service" to conform to clause (2) of this section and section 886 (3) of this title. The word "proper" is omitted as surplusage.

In subsection (b), the word "commissioned" is inserted for clarity. The word "before" is substituted for the words "prior to". The words "its acceptance" are substituted for the words "the acceptance of the same". The words "after tender of" are substituted for the words "having tendered" for clarity. The word "due" is omitted as surplusage.

In subsection (c), the words "attempt to desert" are substituted for the words "attempted desertion".

Art. 86, 10 U.S.C. § 886—Absence without leave

Congress created Art. 86 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 86 originally was codified at 50 U.S.C. § 680 (1952). As shown below, in 1956 Congress directed that Art. 86 be re-codified at 10 U.S.C. § 886. Information about amendments to Art. 86 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 67(1956).

2. *First codification of the amended Article*: 10 U.S.C. § 886 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The words "proper" and "other" are omitted as surplusage.

Art. 87, 10 U.S.C. § 887—Missing movement; jumping from vessel

Congress created Art. 87 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 87 originally was codified at 50 U.S.C. § 681 (1952). As shown below, in 1956 Congress directed that Art. 87 be re-codified at 10 U.S.C. § 887. Information about amendments to Art. 87 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 67 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 887 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5406, 130 Stat. 2000, 2940 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 887 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5406. MISSING MOVEMENT; JUMPING FROM VESSEL.
>
> Section 887 of title 10, United States Code (article 87 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 887. Art. 87. Missing movement; jumping from vessel
>
> "(a) MISSING MOVEMENT.—Any person subject to this chapter who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.
>
> "(b) JUMPING FROM VESSEL INTO THE WATER.—Any person subject to this chapter who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.".

Art. 87a (formerly Art. 95), 10 U.S.C. § 887a—Resistance, flight, breach of arrest, and escape

Congress created Art. 95 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 95 originally was codified at 50 U.S.C. § 689 (1952). As shown below, in 1956 Congress directed that Art. 95 be re-codified at 10 U.S.C. § 895, and in 2016 Congress renumbered Art. 95

as Art. 87a and re-codified the article at 10 U.S.C. § 887a. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 69 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 895 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 1112(a) & (b), 110 Stat. 186, 461 (1996).

2. First codification of the amended Article: 10 U.S.C. § 895 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1112. FLIGHT FROM APPREHENSION.

(a) IN GENERAL.—Section 895 (article 95) is amended to read as follows:

"§ 895. Art. 95. Resistance, flight, breach of arrest, and escape

"Any person subject to this chapter who—

"(1) resists apprehension;

"(2) flees from apprehension;

"(3) breaks arrest; or

"(4) escapes from custody or confinement;

shall be punished as a court-martial may direct.".

(b) CLERICAL AMENDMENT.—The item relating to section 895 (article 95) in the table of sections at the beginning of subchapter X is amended to read as follows:

"895. Art. 95. Resistance, flight, breach of arrest, and escape.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(2), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 887a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (2) RESISTANCE, FLIGHT, BREACH OF ARREST, AND ESCAPE.—Section 895 (article 95) is transferred so as to appear after section 887 (article 87) and is redesignated as section 887a (article 87a).

Art. 87b, 10 U.S.C. § 887b—Offenses against correctional custody and restriction

Congress created Art. 87b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5407, 130 Stat. 2000, 2941 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 887b (2018). It became effective on Jan. 1, 2019. See Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 87b.

Art. 88, 10 U.S.C. § 888—Contempt toward officials

Congress created Art. 88 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 88 originally was codified at 50 U.S.C. § 682 (1952). As shown below, in 1956 Congress directed that Art. 88 be re-codified at 10 U.S.C. § 888. Information about amendments to Art. 88 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 67 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 888 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "commissioned" is inserted for clarity. The words "the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession" are substituted for the words "Vice President, Congress, Secretary of Defense, or a Secretary of a Department, a Governor or a legislature of any State, Territory, or other possession of the United States".

Amendment of Dec. 12, 1980

1. Law amending the Article: *1. Law amending the Article*: Defense Officer Personnel Management Act, Pub. L. No. 96-513, § 511(25), 94 Stat. 2835, 2922 (1980).

2. First codification of the amended Article: 10 U.S.C. § 802 (1976 & Supp. IV 1980).

3. Effective date of amendment: December 12, 1980. *See* Pub. L. No. 96-513, § 701(b)(3), 94 Stat. at 2835 (The amendments made by part B of title V shall take effect on the date of the enactment of this Act.).

4. Text of the amendment:

> AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE
>
> Sec. 511. Subtitle A is amended as follows:
>
> * * *
>
> (25) Sections 865(c) and 888 are amended by striking out "the Treasury" and inserting in lieu thereof "Transportation".

Amendment of Nov. 25, 2002

1. Law amending the Article: Homeland Security Act of 2002, Pub. L. No. 107-296, § 1704(b)(1), 116 Stat. 2135, 2314 (2002)

2. First codification of the amended Article: 10 U.S.C. § 888 (Supp. II 2002).

3. Effective date of amendment: March 1, 2003. *See* Pub. L. No. 107-296, § 1704(g), 116 Stat. at 2314 ("The amendments made by this section . . . shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security.").

4. Text of the amendment:

> SEC. 1704. COAST GUARD
>
> * * *
>
> (b) TITLE 10, UNITED STATES CODE.—(1) Title 10, United States Code, is amended in sections in sections * * * 888, [and other listed sections] * * * by striking "of Transportation" each place it appears and inserting "of Homeland Security"

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1057(a)(3), 119 Stat. 3136, 3440 (2006).

2. First codification of the amended Article: 10 U.S.C. § 888 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.
>
> (a) DELETING OBSOLETE DEFINITION OF "TERRITORY" IN TITLE 10.—Title 10, United States Code, is amended as follows:
>
> * * *
>
> (3) The following sections are amended by striking the terms "Territory," and "Territories," each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

Art. 89, 10 U.S.C. § 889—Disrespect toward superior commissioned officer; assault of superior commissioned officer

Congress created Art. 89 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 89 originally was codified at 50 U.S.C. § 683 (1952). As shown below, in 1956 Congress directed that Art. 89 be re-codified at 10 U.S.C. § 889. Information about amendments to Art. 89 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 67 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 889 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "commissioned" is inserted for clarity.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5408, 130 Stat. 2000, 2941 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 889 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5408. DISRESPECT TOWARD SUPERIOR COMMISSIONED OFFICER; ASSAULT OF SUPERIOR COMMISSIONED OFFICER.
>
> Section 889 of title 10, United States Code (article 89 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer
>
> "(a) DISRESPECT.—Any person subject to this chapter who behaves with disrespect toward that person's superior commissioned officer shall be punished as a court-martial may direct.

"(b) ASSAULT.—Any person subject to this chapter who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished—

"(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

"(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.".

Art. 90, 10 U.S.C. § 890—Willfully disobeying superior commissioned officer

Congress created Art. 90 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 90 originally was codified at 50 U.S.C. § 684 (1952). As shown below, in 1956 Congress directed that Art. 90 be re-codified at 10 U.S.C. § 890. Information about amendments to Art. 90 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 68 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 890 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The word "commissioned" is inserted for clarity.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5409, 130 Stat. 2000, 2942 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 890 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to

designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5409. WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.
>
> Section 890 of title 10, United States Code (article 90 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 890. Art. 90. Willfully disobeying superior commissioned officer
>
> Any person subject to this chapter who willfully disobeys a lawful command of that person's superior commissioned officer shall be punished—
>
> "(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and
>
> "(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.".

Art. 91, 10 U.S.C. § 891—Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer

Congress created Art. 91 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 91 originally was codified at 50 U.S.C. § 685 (1952). As shown below, in 1956 Congress directed that Art. 91 be re-codified at 10 U.S.C. § 891. Information about amendments to Art. 91 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 68 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 891 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "member" is substituted for the word "person".

Art. 92, 10 U.S.C. § 892—Failure to obey order or regulation

Congress created Art. 92 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 92 originally was codified at 50 U.S.C. § 686 (1952). As shown below, in 1956 Congress directed that Art. 92 be re-codified at 10 U.S.C. § 892. Information about amendments to Art. 92 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 68 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 892 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "order" is substituted for the word "same".

Art. 93, 10 U.S.C. § 893—Cruelty and maltreatment

Congress created Art. 93 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 93 originally was codified at 50 U.S.C. § 687 (1952). As shown below, in 1956 Congress directed that Art. 93 be re-codified at 10 U.S.C. § 893. Information about amendments to Art. 93 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 68 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 893 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 93a, 10 U.S.C. § 893a—Prohibited activities with military recruit or trainee by person in position of special trust

Congress created Art. 87b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5407, 130 Stat. 2000, 2941 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 887b (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 93a.

Art. 94, 10 U.S.C. § 894—Mutiny or sedition

Congress created Art. 94 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 94 originally was codified at 50 U.S.C. § 688 (1952). As shown below, in 1956 Congress directed that Art. 94 be re-codified at 10 U.S.C. § 894. Information about amendments to Art. 94 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 68 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 894 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a)(1) and (2), the words "or persons" are omitted, since, under section 1 of title 1, words importing the singular may apply to several persons. In subsection (a)(3), the word "a" is substituted for the words "an offense of". The words "commissioned officer" are inserted after the word "superior", for clarity.

[Former Art. 95, 10 U.S.C. § 895—Resistance, flight, breach of arrest, and escape]

This Article was moved and renumbered. For the details, see the entry for Art. 87.

Art. 95 (formerly Art. 113), 10 U.S.C. § 895—Offenses by sentinel or lookout

Congress created Art. 113 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 113 originally was codified at 50 U.S.C. § 707 (1952). As shown below, in 1956 Congress directed that Art. 113 be re-codified at 10 U.S.C. § 913, and in 2016 Congress renumbered Art. 113 as Art. 95 and re-codified the article at 10 U.S.C. § 895. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 913 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5401(8), 5411, 130 Stat. 2938, 2943 (2016).

2. First codification of the amended Article: 10 U.S.C. § 895 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

* * *

(8) MISBEHAVIOR OF SENTINEL.—Section 913 (article 113) is transferred so as to appear after section 894 (article 94) and is redesignated as section 895 (article 95).

* * *

SEC. 5411. OFFENSES BY SENTINEL OR LOOKOUT.

Section 895 of title 10, United States Code (article 95 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(8) of this Act, is amended to read as follows:

§ 895. Art. 95. Offenses by sentinel or lookout

"(a) DRUNK OR SLEEPING ON POST, OR LEAVING POST BEFORE BEING RELIEVED.—Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved, shall be punished—

"(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

"(2) if the offense is committed other than in time of war, by such punishment, other than death, as a court-martial may direct.

"(b) LOITERING OR WRONGFULLY SITTING ON POST.—Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.".

Art. 95a, 10 U.S.C. § 895a—Disrespect toward sentinel or lookout

Congress created Art. 95a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5412, 130 Stat. 2000, 2943 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 895a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 95a.

Art. 96, 10 U.S.C. § 896—Release of prisoner without authority; drinking with prisoner

Congress created Art. 96 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 136 (1950). Art. 96 originally was codified at 50 U.S.C. § 690 (1952). As shown below, in 1956 Congress directed that Art. 96 be re-codified at 10 U.S.C. § 896. Information about amendments to Art. 96 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 69 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 896 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "whether or not the prisoner was committed in strict compliance with law" are substituted for the word "duly", to reflect the long standing construction expressed in the Manual for Courts-Martial, United States, 1951, par. 175a.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5413, 130 Stat. 2000, 2944 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 896 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5413. RELEASE OF PRISONER WITHOUT AUTHORITY; DRINKING WITH PRISONER.

Section 896 of title 10, United States Code (article 96 of the Uniform Code of Military Justice), is amended to read as follows:

§ 896. Art. 96. Release of prisoner without authority; drinking with prisoner

"(a) RELEASE OF PRISONER WITHOUT AUTHORITY.—Any person subject to this chapter—

"(1) who, without authority to do so, releases a prisoner; or

"(2) who, through neglect or design, allows a prisoner to escape; shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

"(b) DRINKING WITH PRISONER.—Any person subject to this chapter who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.".

Art. 97, 10 U.S.C. § 897—Unlawful detention

Congress created Art. 97 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 137 (1950). Art. 97 originally was codified at 50 U.S.C. § 691 (1952). As shown below, in 1956 Congress directed that Art. 97 be re-codified at 10 U.S.C. § 897. Information about amendments to Art. 97 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 69 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 897 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

[Former Art. 98, 10 U.S.C. § 898—Noncompliance with procedural rules]

This Article was moved and renumbered. For the details, see the entry for Art. 131f.

Art. 98 (formerly Art. 105), 10 U.S.C. § 898—Misconduct as prisoner

Congress created Art. 105 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 105 originally was codified at 50 U.S.C. § 699 (1952). As shown below, in 1956 Congress directed that Art. 105 be re-codified at 10 U.S.C. § 905, and in 2016 Congress renumbered Art. 105 as Art. 98 and re-codified the article at 10 U.S.C. § 898. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 905 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(6), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 898 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (6) MISCONDUCT AS PRISONER.—Section 905 (article 105) is transferred so as to appear after section 897 (article 97) and is redesignated as section 898 (article 98).

Art. 99, 10 U.S.C. § 899—Misbehavior before the enemy

Congress created Art. 99 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 137 (1950). Art. 99 originally was codified at 50 U.S.C. § 693 (1952). As shown below, in 1956 Congress directed that Art. 99 be re-codified at 10 U.S.C. § 899. Information about amendments to Art. 99 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 69 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 899 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 100, 10 U.S.C. § 900—Subordinate compelling surrender

Congress created Art. 100 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 137 (1950). Art. 100 originally was codified at 50 U.S.C. § 694 (1952). As shown below, in 1956 Congress directed that Art. 100 be re-codified at 10 U.S.C. § 900. Information about amendments to Art. 100 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 70 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 900 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 101, 10 U.S.C. § 901—Improper use of countersign

Congress created Art. 101 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 137 (1950). Art. 101 originally was codified at 50 U.S.C. § 695 (1952). As shown below, in 1956 Congress directed that Art. 101 be re-codified at 10 U.S.C. § 901. Information about amendments to Art. 101 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 70 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 901 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 102, 10 U.S.C. § 902—Forcing a safeguard

Congress created Art. 102 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 137 (1950). Art. 102 originally was codified at 50 U.S.C. § 696 (1952). As shown below, in 1956 Congress directed that Art. 102 be re-codified at 10 U.S.C. § 902. Information about amendments to Art. 102 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 70 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 902 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

[Former Art. 103, 10 U.S.C. § 903—Captured or abandoned property]

This Article was moved and renumbered. For the details, see the entry for Art. 108a.

Art. 103 (formerly Art. 106), 10 U.S.C. § 903—Spies

Congress created Art. 106 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 106 originally was codified at 50 U.S.C. § 700 (1952). As shown below, in 1956 Congress directed that Art. 106 be re-codified at 10 U.S.C. § 906. In 2016 Congress renumbered Art. 106 as Art. 103 and re-codified the article at 10 U.S.C. § 903. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 906 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "of the United States" are omitted as surplusage.

Amendment of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 906 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:
>
> * * *
>
> (2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections * * * 906, [and other listed sections] * * * are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act or Fiscal Year 2017, Pub. L. No. 114-328, §§ 5401(7), 5414, 130 Stat. 2938, 2944 (2016).

2. First codification of the amended Article: 10 U.S.C. § 903 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (7) SPIES; ESPIONAGE.—Sections 906 and 906a (articles 106 and 106a) are transferred so as to appear (in that order) after section 902 (article 102) and are redesignated as sections 903 and 903a (articles 103 and 103a), respectively.
>
> * * *
>
> SEC. 5414. PENALTY FOR ACTING AS A SPY.
>
> Section 903 of title 10, United States Code (article 103 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(7) of this Act, is amended by inserting before the period at the end of the first sentence the following: "or such other punishment as a court-martial or a military commission may direct".

Art. 103a (formerly Art. 106a), 10 U.S.C. § 903a—Espionage

Congress enacted Art. 106a on Nov. 8, 1985, in the Department of Defense Authorization Act, 1986, Pub. L. No. 99-145, 99 Stat. 583, 634 (1985). It was first codified at 10 U.S.C. § 906a (1982 Supp. III 1985). The effective date of the new article was not specified. In 2016, Congress renumbered Art. 106a as Art. 103a and re-codified the article at 10 U.S.C. § 903a. Information about amendments to the Article since 1985 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(7), 130 Stat. 2000, 2938 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 903a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (7) SPIES; ESPIONAGE.—Sections 906 and 906a (articles 106 and 106a) are transferred so as to appear (in that order) after section 902 (article 102) and are redesignated as sections 903 and 903a (articles 103 and 103a), respectively.

Art. 103b (formerly Art. 104), 10 U.S.C. § 903b—Aiding the enemy

Congress created Art. 104 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 104 originally was codified at 50 U.S.C. § 698 (1952). As shown below, in 1956 Congress directed that Art. 104 be re-codified at 10 U.S.C. § 904; and in 2016 Congress renumbered Art. 104 as Art. 103b and re-codified it at 10 U.S.C. § 903b. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 70 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 904 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendments of Oct. 17, 2006

1. Law amending the Article: The Military Commissions Act of 2006, Pub. L. No. 109-366, § 4(a)(2), 120 Stat. 2600, 2631 (2006).

2. First codification of the amended Article: 10 U.S.C. § 904 (2006).

3. Effective date of amendment: Not specified.

4. Text of the amendments):

> SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:
>
> * * *
>
> (2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections * * *904 [and other listed sections]* * * are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(5), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 903b (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

* * *

(5) AIDING THE ENEMY.—Section 904 (article 104) is redesignated as section 903b (article 103b).

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 564, 138 Stat 1773, 1904 (2024).

2. First codification of the amended Article: 10 U.S.C. § 903b (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 564. MODIFICATION TO OFFENSE OF AIDING THE ENEMY UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

Section 903b(2) of title 10, United States Code (article 103b(2) of the Uniform Code of Military Justice), is amended by inserting "provides military education, military training, or tactical advice to," after "gives intelligence to,".

[Former Art. 104, 10 U.S.C. § 904—Aiding the enemy]

This Article was moved and renumbered. For the details, see the entry for Art. 103b.

Art. 104, 10 U.S.C. § 904—Public records offenses

Note: In 2016 Congress renumbered the previous Art. 104 (Aiding the enemy) as Art. 103b. See the entry for Art. 103b above for more information.

Congress created Art. 104 in the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5415, 130 Stat. 2000, 2944 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It was first codified at 10 U.S.C. § 904 (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 104.

Art. 104a (formerly Art. 83), 10 U.S.C. § 904a—Fraudulent enlistment, appointment, or separation

Congress created Art. 83 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 134 (1950). Art. 83 originally was codified at 50 U.S.C. § 677 (1952). As shown below, in 1956 Congress directed that Art. 83 be re-codified at 10 U.S.C. § 883; and in 2016 Congress renumbered Art. 83 as Art. 104a and re-codified it at 10 U.S.C. § 904a. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 66 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 883 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In clauses (1) and (2), the words "means of" are omitted as surplusage.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(1), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 904a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

(1) ENLISTMENT AND SEPARATION.—Sections 883 and 884 (articles 83 and 84) are transferred so as to appear (in that order) after section 904 (article 104) and are redesignated as sections 904a and 904b (articles 104a and 104b), respectively.

Art. 104b (formerly Art. 84), 10 U.S.C. § 904b—Unlawful enlistment, appointment, or separation

Congress created Art. 84 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 135 (1950). Art. 84 originally was codified at 50 U.S.C. § 678 (1952). As shown below, in 1956 Congress directed that Art. 83 be re-codified at 10 U.S.C. § 883; and in 2016 Congress renumbered Art. 84 as Art. 104b and re-codified it at 10 U.S.C. § 904b. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 66 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 884 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(1), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 904b (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

(1) ENLISTMENT AND SEPARATION.—Sections 883 and 884 (articles 83 and 84) are transferred so as to appear (in that order) after section 904 (article 104) and are redesignated as sections 904a and 904b (articles 104a and 104b), respectively.

[Former Art. 105, 10 U.S.C. § 905—Misconduct as prisoner]

This Article was moved and renumbered. For the details, see the entry for Art. 98.

Art. 105 (formerly Art. 123), 10 U.S.C. § 905—Forgery

Congress created Art. 123 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Art. 123 originally was codified at 50 U.S.C. § 717 (1952). As shown below, in 1956 Congress directed that Art. 123 be re-codified at 10 U.S.C. § 923; and in 2016 Congress renumbered Art. 123 as Art. 105 and re-codified it at 10 U.S.C. § 905. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 74 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 923 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(12), 130 Stat. 2000, 2939 (2016).

2. First codification of the amended Article: 10 U.S.C. § 905 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to

the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (12) FORGERY.—Section 923 (article 123) is transferred so as to appear after section 904b (article 104b), as transferred and redesignated by paragraph (1), and is redesignated as section 905 (article 105).

Art. 105a, 10 U.S.C. § 905a—False or unauthorized pass offenses

Congress created Art. 105a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5416, 130 Stat. 2000, 2944 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 905a (2018). It became effective on Jan. 1, 2019. See Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 105a.

[Former Art. Art. 106, 10 U.S.C. § 906—Spies]

This Article was moved and renumbered. For the details, see the entry for Art. 103.

Art. 106, 10 U.S.C. § 906—Impersonation of officer, noncommissioned or petty officer, or agent or official

Note: In 2016 Congress renumbered the former Art. 106 (Spies) as Art. 103. See the entry for Art. 103 above for more information.

Congress created Art. 106, on Dec. 23, 2016, in the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5417, 130 Stat. 2000, 2938 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It was first codified at 10 U.S.C. § 906 (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 106.

[Former Art. 106a, 10 U.S.C. § 906a—Espionage]

This Article was moved and renumbered. For the details, see the entry for Art. 103a.

Art. 106a, 10 U.S.C. § 906a—Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button

Congress created a new version of Art. 106a in the National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5418, 130 Stat. 2000, 2945 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 906a (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 106a.

Art. 107, 10 U.S.C. § 907—False official statements; false swearing

Congress created Art. 107 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 107 originally was codified at 50 U.S.C. § 701 (1952). As shown below, in 1956 Congress directed that Art. 102 be re-codified at 10 U.S.C. § 907. Information about amendments to Art. 107 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 907 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "it" is substituted for the words "the same".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5419, 130 Stat. 2000, 2946 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 907 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5419. FALSE OFFICIAL STATEMENTS; FALSE SWEARING.
>
> Section 907 of title 10, United States Code (article 107 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 907. Art. 107. False official statements; false swearing
>
> "(a) FALSE OFFICIAL STATEMENTS.—Any person subject to this chapter who, with intent to deceive—
>
> "(1) signs any false record, return, regulation, order, or other official document, knowing it to be false; or
>
> "(2) makes any other false official statement knowing it to be false; shall be punished as a court-martial may direct.
>
> "(b) FALSE SWEARING.—Any person subject to this chapter—
>
> "(1) who takes an oath that—
>
> "(A) is administered in a matter in which such oath is required or authorized by law; and

"(B) is administered by a person with authority to do so; and

"(2) who, upon such oath, makes or subscribes to a statement; if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.".

Art. 107a, 10 U.S.C. § 907a—Parole violation

Congress created Art. 107a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5420, 130 Stat. 2000, 2946 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 907a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 107a.

Art. 108, 10 U.S.C. § 908—Military property of United States—Loss, damage, destruction, or wrongful disposition

Congress created Art. 108 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 108 originally was codified at 50 U.S.C. § 702 (1952). As shown below, in 1956 Congress directed that Art. 108 be re-codified at 10 U.S.C. § 908. Information about amendments to Art. 108 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 908 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 108a (formerly Art. 103), 10 U.S.C. § 908a—Captured or abandoned property

Congress created Art. 103 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 138 (1950). Art. 103 originally was codified at 50 U.S.C. § 697 (1952). As shown below, in 1956 Congress directed that Art. 103 be re-codified at 10 U.S.C. § 903; and in 2016 Congress renumbered Art. 103 as Art. 108a and re-codified it at 10 U.S.C. § 908a. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 70 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 903 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (b)(1), the words "of this section" are omitted as surplusage.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(4), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 908a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

* * *

(4) CAPTURED OR ABANDONED PROPERTY.—Section 903 (article 103) is transferred so as to appear after section 908 (article 108) and is redesignated as section 908a (article 108a).

Art. 109, 10 U.S.C. § 909—Property other than military property of United States—Waste, spoilage, or destruction

Congress created Art. 109 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 109 originally was codified at 50 U.S.C. § 703 (1952). As shown below, in 1956 Congress directed that Art. 109 be re-codified at 10 U.S.C. § 909. Information about amendments to Art. 109 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 909 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 109a, 10 U.S.C. § 909a—Mail matter: wrongful taking, opening, etc.

Congress created Art. 109a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5421, 130 Stat. 2000, 2946 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 909a (2018). It became effective on January 1, 2019. See Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 109a.

Art. 110, 10 U.S.C. § 910—Improper hazarding of vessel or aircraft

Congress created Art. 110 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 110 originally was codified at 50 U.S.C. § 704 (1952). As shown below, in 1956 Congress directed that Art. 110 be re-codified at 10 U.S.C. § 910. Information about amendments to Art. 110 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 71 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 910 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows: The Historical and Revision Notes following 10 U.S.C. § 910 (Supp. IV 1956) show no changes to Article 110.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5422, 130 Stat. 2000, 2947 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 910 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5422. IMPROPER HAZARDING OF VESSEL OR AIRCRAFT.
>
> Section 910 of title 10, United States Code (article 110 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 910. Art. 110. Improper hazarding of vessel or aircraft

"(a) WILLFUL AND WRONGFUL HAZARDING.—Any person subject to this chapter who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished by death or such other punishment as a court-martial may direct.

"(b) NEGLIGENT HAZARDING.—Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished as a court-martial may direct.".

[Former Art. 111, 10 U.S.C. § 911—Drunken or reckless operation of a vehicle, aircraft, or vessel]

This Article was moved and renumbered. For the details, see the entry for Art. 113.

Art. 111, 10 U.S.C. § 911—Leaving scene of vehicle accident

Congress created the original version of Art. 111 ("Drunken or reckless driving") in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 111 originally was codified at 50 U.S.C. § 705 (Supp. IV 1950). In 1956 Congress directed that Art. 111 be re-codified at 10 U.S.C. § 911; and in 2016 Congress renumbered Art. 111 as Art. 113 and re-codified it at 10 U.S.C. § 913. See the entry below for Article 113 for information about amendments to Article 111 before 2016 and for amendments to article 113 after 1950.

Congress created new version of Art. 111 ("Leaving scene of vehicle accident") on Dec. 23, 2016, in Pub. L. No. 114-328, § 5423, 130 Stat. 2000, 2947 (2016). Article 111 is codified at 10 U.S.C. § 911 (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 111 since 2016.

Art. 112, 10 U.S.C. § 912—Drunkenness and other incapacitation offenses

Congress created Art. 112 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 112 originally was codified at 50 U.S.C. § 706 (1952). As shown below, in 1956 Congress directed that Art. 112 be re-codified at 10 U.S.C. § 912. Information about amendments to Art. 112 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 912 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5424, 130 Stat. 2000, 2947 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 912 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5424. DRUNKENNESS AND OTHER INCAPACITATION OFFENSES.

Section 912 of title 10, United States Code (article 112 of the Uniform Code of Military Justice), is amended to read as follows:

§ 912. Art. 112. Drunkenness and other incapacitation offenses

"(a) DRUNK ON DUTY.—Any person subject to this chapter who is drunk on duty shall be punished as a court-martial may direct.

"(b) INCAPACITATION FOR DUTY FROM DRUNKENNESS OR DRUG USE.—Any person subject to this chapter who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

"(c) DRUNK PRISONER.—Any person subject to this chapter who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.".

Art. 112a, 10 U.S.C. § 912a—Wrongful use, possession, etc., of controlled substances

Congress enacted Art. 112a on Dec, 6, 1983, in the Military Justice Act of 1983, Pub. L. No. 98-209, § 8(a), 97 Stat. 1393, 1403 (1983). It was first codified at 10 U.S.C. § 912a (1982 & Supp. I 1983).). It became effective on August 1, 1984, but was not applicable to any offense committed before that date. *See* Pub. L. No. 98-209, § 8(a), 97 Stat. at 1403 ("The amendments made by this Act…shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act…"). Congress has not amended Art. 112a.

[Former Art. 113, 10 U.S.C. § 913—Offenses by sentinel or lookout]

This Article was moved and renumbered. For the details, see the entry for Art. 95.

Art. 113 (formerly Art. 111), 10 U.S.C. § 913—Drunken or reckless operation of a vehicle, aircraft, or vessel

Congress created Art. 111 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 111 originally was codified at 50 U.S.C. § 705 (1952). As shown below, in 1956 Congress directed that Art. 111 be re-codified at 10 U.S.C. § 911; and in 2016 Congress renumbered Art. 111 as Art. 113 and re-codified it at 10 U.S.C. § 913. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 911 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Oct. 27, 1986

1. Law amending the Article: Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570, § 3055, 100 Stat. 3207 (1986).

2. First codification of the amended Article: 10 U.S.C. § 911 (1986).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 3055. DRIVING WHILE IMPAIRED.

Section 911 of title 10, United States Code, is amended by inserting "or while impaired by a substance described in section 912a(b) of this title (article 112a(b))," after "manner,".

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1066(a)(1), 106 Stat. 2315, 2506 (1992).

2. First codification of the amended Article: 10 U.S.C. § 911 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. *Text of the amendment*:

SEC. 1066. AMENDMENTS TO PUNITIVE ARTICLES.

(a) STANDARD FOR DRUNKENNESS.—(1) Section 911 (article 111) of title 10, United States Code, is amended to read as follows:

"§ 911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel

"Any person subject to this chapter who—

"(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

"(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is 0.10 grams of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis, shall be punished as a court-martial may direct.".

Amendment of Nov. 30, 1993

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, § 576(a), 107 Stat. 1547, 1677 (1993)

2. First codification of the amended Article: 10 U.S.C. § 911 (Supp. V 1993).

3. Effective date of amendment: October 23, 1992. *See* Pub. L. No. 103-160, § 576(b), 107 Stat. at 1677. ("The amendments made by subsection (a) shall take effect as if included in the amendment to section 911 of title 10, United States Code, made by section 1066(a)(1) of Public Law 102-484 on October 23, 1992.").

4. *Text of the amendment*:

SEC. 576. CLARIFICATION OF PUNITIVE UCMJ ARTICLE REGARDING DRUNKEN DRIVING.

(a) CLARIFICATION.—Paragraph (2) of section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended by inserting "or more" after "0.10 grams" both places such term appears.

Amendment of Dec. 28, 2001

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, § 581, 115 Stat. 1012, 1123 (2001).

2. First codification of the amended Article: 10 U.S.C. § 913 (Supp. I 2001).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 581. BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person";

(2) by striking "0.10 grams" the first place it appears and all that follows through "chemical analysis" and inserting "in excess of the applicable limit under subsection (b)"; and

(3) by adding at the end the following:

"(b)(1) For purposes of subsection (a), the applicable limit on the alcohol concentration in a person's blood or breath is as follows:

"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State and subject to the maximum blood alcohol content limit specified in paragraph (3).

"(B) In the case of the operation or control of a vehicle, aircraft, or vessel outside the United States, the applicable blood alcohol content limit is the maximum blood alcohol content limit specified in paragraph (3) or such lower limit as the Secretary of Defense may by regulation prescribe.

"(2) In the case of a military installation that is in more than one State, if those States have different blood alcohol content limits under their respective State laws, the Secretary may select one such blood alcohol content limit to apply uniformly on that installation.

"(3) For purposes of paragraph (1), the maximum blood alcohol content limit with respect to alcohol concentration in a person's blood is 0.10 grams of alcohol per 100 milliliters of blood and with respect to alcohol concentration in a person's breath is 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis.

"(4) In this subsection:

"(A) The term 'blood alcohol content limit' means the maximum permissible alcohol concentration in a person's blood or breath for purposes of operation or control of a vehicle, aircraft, or vessel.

"(B) The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and the term 'State' includes each of those jurisdictions.".

Amendment of Nov. 24, 2003

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 552, 117 Stat. 1392, 1481 (2003).

2. First codification of the amended Article: 10 U.S.C. § 913 (Supp. III 2003).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 552. CLARIFICATION OF BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(2), by striking "is in excess of" and inserting "is equal to or exceeds"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the lesser of—

"(i) the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State; or

"(ii) the blood alcohol content limit specified in paragraph (3).";

(B) in paragraphs (1)(B) and (3), by striking "maximum"; and

(C) in paragraph (4)(A), by striking "maximum permissible" and all that follows through the period at the end and inserting "amount of alcohol concentration in a person's blood or breath at which operation or control of a vehicle, aircraft, or vessel is prohibited.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5401(9), 5425, 130 Stat. 2000, 2939, 2948 (2016).

2. First codification of the amended Article: 10 U.S.C. § 913 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (9) DRUNKEN OR RECKLESS OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.—Section 911 (article 111) is transferred so as to appear after section 912a (article 912a) and is redesignated as section 913 (article 113).
>
> * * *
>
> SEC. 5425. LOWER BLOOD ALCOHOL CONTENT LIMITS FOR CONVICTION OF DRUNKEN OR RECKLESS OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.
>
> Subsection (b)(3) of section 913 of title 10, United States Code (article 113 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(9) of this Act, is amended—
>
> (1) by striking "0.10 grams" both places it appears and inserting "0.08 grams"; and
>
> (2) by adding at the end the following new sentence: "The Secretary may by regulation prescribe limits that are lower than the limits specified in the preceding sentence, if such lower limits are based on scientific developments, as reflected in Federal law of general applicability.".

Art. 114, 10 U.S.C. § 914—Endangerment offenses

Congress created Art. 114 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 114 originally was codified at 50 U.S.C. § 708 (1952). As shown below, in 1956 Congress

directed that Art. 114 be re-codified at 10 U.S.C. § 914. Information about amendments to Art. 114 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 914 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5426, 130 Stat. 2000, 2948 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 914 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5426. ENDANGERMENT OFFENSES.
>
> Section 914 of title 10, United States Code (article 114 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(a) RECKLESS ENDANGERMENT.—Any person subject to this chapter who engages in conduct that—
>
> "(1) is wrongful and reckless or is wanton; and
>
> "(2) is likely to produce death or grievous bodily harm to another person;
>
> shall be punished as a court-martial may direct.
>
> "(b) DUELING.—Any person subject to this chapter—

"(1) who fights or promotes, or is concerned in or connives at fighting, a duel; or

"(2) who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority;

shall be punished as a court-martial may direct.

"(c) FIREARM DISCHARGE, ENDANGERING HUMAN LIFE.—Any person subject to this chapter who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

"(d) CARRYING CONCEALED WEAPON.—Any person subject to this chapter who unlawfully carries a dangerous weapon concealed on or about his person shall be punished as a court-martial may direct.".

[Former Art. 115, 10 U.S.C. § 915—Malingering]

This Article was moved and renumbered. For the details, see the entry for Art. 83.

Art. 115, 10 U.S.C. § 915—Communicating threats

Congress created Art. 115 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 115 originally was codified at 50 U.S.C. § 709 (1952). As shown below, in 1956 Congress directed that Art. 115 be re-codified at 10 U.S.C. § 915. Information about amendments to Art. 115 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 915 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5427, 130 Stat. 2000, 2948 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 915 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5427. COMMUNICATING THREATS.
>
> Section 915 of title 10, United States Code (article 115 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 915. Art. 115. Communicating threats
>
> "(a) COMMUNICATING THREATS GENERALLY.—Any person subject to this chapter who wrongfully communicates a threat to injure *2949 the person, property, or reputation of another shall be punished as a court-martial may direct.
>
> "(b) COMMUNICATING THREAT TO USE EXPLOSIVE, ETC.—Any person subject to this chapter who wrongfully communicates a threat to injure the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct.
>
> "(c) COMMUNICATING FALSE THREAT CONCERNING USE OF EXPLOSIVE, ETC.—Any person subject to this chapter who maliciously communicates a false threat concerning injury to the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct. As used in the preceding sentence, the term 'false threat' means a threat that, at the time the threat is communicated, is known to be false by the person communicating the threat.".

Art. 116, 10 U.S.C. § 916—Riot or breach of peace

Congress created Art. 116 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 116 originally was codified at 50 U.S.C. § 710 (1952). As shown below, in 1956 Congress directed that Art. 116 be re-codified at 10 U.S.C. § 916. Information about amendments to Art. 116 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 916 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 117, 10 U.S.C. § 917—Provoking speeches or gestures

Congress created Art. 117 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 139 (1950). Art. 117 originally was codified at 50 U.S.C. § 711 (1952). As shown below, in 1956 Congress directed that Art. 117 be re-codified at 10 U.S.C. § 917. Information about amendments to Art. 117 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 917 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Art. 117a, 10 U.S.C. § 917a—Wrongful broadcast or distribution of intimate visual images

Congress created Art. 117a in National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 533(a), 131 Stat. 1283, 1389 (2017). It was first codified at 10 U.S.C. § 917a (Supp. V 2017). It became effective on January 1, 2019. *See* National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(p), 131 Stat. at 1384 (2017) ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967)."). Congress has not amended Art. 117a.

Art. 118, 10 U.S.C. § 918—Murder

Congress created Art. 118 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 140 (1950). Art. 118 originally was codified at 50 U.S.C. § 712 (1952). As shown below, in 1956 Congress directed that Art. 118 be re-codified at 10 U.S.C. § 918. Information about amendments to Art. 118 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 72 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 918 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "of this section" are omitted as surplusage.

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1066(b), 106 Stat. 2315, 2506 (1992).

2. First codification of the amended Article: 10 U.S.C. § 918 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. Text of the amendment:

> SEC. 1066. AMENDMENTS TO PUNITIVE ARTICLES.
>
> * * *
>
> (b) CLARIFICATION.—Section 918(3) (article 118(3)) of such title is amended by striking out "others" and inserting in lieu thereof "another".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 552(d), 119 Stat. 3136, 3263 (2006).

2. First codification of the amended Article: 10 U.S.C. § 918 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 552. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (d) AGGRAVATING FACTORS FOR OFFENSE OF MURDER.—Section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), is amended in paragraph (4) by striking "rape," and inserting "rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child,".

Amendment of Dec. 31, 2011

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 541(d)(2), 125 Stat. 1298, 1410 (2011).

2. First codification of the amended Article: 10 U.S.C. § 918 (Supp. V 2011).

3. Effective date of the amendment: *See* Pub. L. No. 112-81, div. A, title V, § 541(f), Dec. 31, 2011, 125 Stat. 1411 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed on or after such effective date.").

4. Text of the amendment:

> SEC. 541. REFORM OF OFFENSES RELATING TO RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER THE UNIFORM CODE OF MILITARY JUSTICE.
>
> * * *
>
> (d) CONFORMING AMENDMENTS.--Chapter 47 of such title (the Uniform Code of Military Justice) is further amended as follows:
>
> * * *
>
> (2) MURDER.--Paragraph (4) of section 918 (article 118) is amended by striking "aggravated sexual assault," and all that follows through "with a child," and inserting "sexual assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child,".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(d)(2)(B), 128 Stat. 3292, 3364 (2014).

2. First codification of the amended Article: 10 U.S.C. § 918 (Supp. II 2014).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.

* * *

(d) REPEAL OF OFFENSE OF CONSENSUAL SODOMY UNDER THE UNIFORM CODE OF MILITARY JUSTICE.—

* * *

(2) CONFORMING AMENDMENTS.—

* * *

(B) ARTICLE 118.—Section 918(4) of such title (article 118(4) of the Uniform Code of Military Justice) is amended by striking "sodomy" and inserting "forcible sodomy".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5428, 130 Stat. 2000, 2949 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 918 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5428. TECHNICAL AMENDMENT RELATING TO MURDER.

* * *

Section 918(4) of title 10, United States Code (article 118(4) of the Uniform Code of Military Justice), is amended by striking "forcible sodomy,".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(a), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 918 (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) TECHNICAL AMENDMENT RELATING TO GUILTY PLEAS FOR MURDER.—Section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), is amended—
>
> (1) by striking "he" each place it appears and inserting "such person"; and
>
> (2) in the matter following paragraph (4), by striking the period and inserting ", unless such person is otherwise sentenced in accordance with a plea agreement entered into between the parties under section 853a of this title (article 53a).".

Art. 119, 10 U.S.C. § 919—Manslaughter

Congress created Art. 119 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 140 (1950). Art. 119 originally was codified at 50 U.S.C. § 713 (1952). As shown below, in 1956 Congress directed that Art. 119 be re-codified at 10 U.S.C. § 919. Information about amendments to Art. 119 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 73 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 919 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "named" is substituted for the word "specified".

Art. 119a, 10 U.S.C. § 919a—Death or injury of an unborn child

Congress created Art. 119a on April 1, 2004, in the Unborn Victims of Violence Act of 2004, Pub. L. No. 108-212, § 3(a), 118 Stat. 568, 569 (2004). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 919a (Supp. IV 2004). The effective date of this new article was not specified. Information about amendments to Art. 119a since 2004 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(13)(B), 130 Stat. 2000, 2939 (2016).

2. First codification of the amended Article: 10 U.S.C. § 919a (Supp. IV 2016).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

* * *

(13) MAIMING.—

* * *

(B) CONFORMING AMENDMENTS.—Section 919a(b) (article 919a(b)) is amended—

(i) by striking "924," and inserting "928a,"; and

(ii) by striking "124," and inserting "128a".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(N), 131 Stat. 1283, 1598 (2017).

2. First codification of the amended Article: 10 U.S.C. § 919a (Supp. V 2017).

3. Effective date of amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. 1283, 1599 (The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. (2017). 2967).).

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(N) Section 919a(b) (article 119a(b)), as amended by section 5401(13)(B) of the Military Justice Act of 2016 (130 Stat. 2939), is further amended—

(i) by striking "928a, 926, and 928" and inserting "926, 928, and 928a"; and

(ii) by striking "128a 126, and 128" and inserting "126, 128, and 128a".

Art. 119b, 10 U.S.C. § 919b—Child endangerment

Congress created Art. 119b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5429, 130 Stat. 2000, 2949 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. It is codified at 10 U.S.C. § 919b (2018). It became effective on Jan. 1, 2019. See Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019.").

Art. 120, 10 U.S.C. § 920—Rape and sexual assault generally

Congress created Art. 120 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 140 (1950). Art. 120 originally was codified at 50 U.S.C. § 714 (1952). As shown below, in 1956 Congress directed that Art. 120 be re-codified at 10 U.S.C. § 920. Information about amendments to Art. 120 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 73 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 920 (Supp. IV 1956).

3. Effective date of the amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (c), the words "either of" are inserted for clarity.

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1066(c), 106 Stat. 2315, 2506 (1992).

2. First codification of the amended Article: 10 U.S.C. § 920 (1988 & Supp. IV 1992).

3. Effective date of the amendment: Oct. 23, 1992. *See* Pub. L. No. 102-484, § 1067, 106 Stat. at 2506 ("The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.").

4. Text of the amendment:

SEC. 1066. AMENDMENTS TO PUNITIVE ARTICLES.

* * *

(c) REMOVAL OF LIMITATIONS RELATING TO GENDER AND MARITAL RELATIONSHIP.—Section 920(a) (article 120(a)) of such title is amended—

(A) by striking out "with a female not his wife"; and

(B) by striking out "her".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1113, 110 Stat. 186, 462 (1996).

2. First codification of the amended Article: 10 U.S.C. § 920 (Supp. II 1996).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1113. CARNAL KNOWLEDGE.

(a) GENDER NEUTRALITY.—Subsection (b) of section 920 (article 120) is amended to read as follows:

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

"(1) who is not that person's spouse; and

"(2) who has not attained the age of sixteen years;

is guilty of carnal knowledge and shall be punished as a court-martial may direct.".

(b) MISTAKE OF FACT.—Such section (article) is further amended by adding at the end the following new subsection:

"(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

"(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

"(B) the accused reasonably believed that that person had at the time of the alleged offense attained the age of sixteen years.

"(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.".

Amendment of Jan. 6, 2006

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 552(a)(1), 119 Stat. 3136, 3256 (2006).

2. First codification of the amended Article: 10 U.S.C. § 920 (Supp. V 2005).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 552. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.

(a) REVISION TO UCMJ.—

(1) IN GENERAL.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 920. Art. 120. Rape, sexual assault, and other sexual misconduct

"(a) RAPE.—Any person subject to this chapter who causes another person of any age to engage in a sexual act by—

"(1) using force against that other person;

"(2) causing grievous bodily harm to any person;

"(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnaping;

"(4) rendering another person unconscious; or

"(5) administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct; is guilty of rape and shall be punished as a court-martial may direct.

"(b) RAPE OF A CHILD.—Any person subject to this chapter who—

"(1) engages in a sexual act with a child who has not attained the age of 12 years; or

"(2) engages in a sexual act under the circumstances described in subsection (a) with a child who has attained the age of 12 years;

is guilty of rape of a child and shall be punished as a court-martial may direct.

"(c) AGGRAVATED SEXUAL ASSAULT.—Any person subject to this chapter who—

"(1) causes another person of any age to engage in a sexual act by—

"(A) threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping); or

"(B) causing bodily harm; or

"(2) engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of—

"(A) appraising the nature of the sexual act;

"(B) declining participation in the sexual act; or

"(C) communicating unwillingness to engage in the sexual act;

is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

"(d) AGGRAVATED SEXUAL ASSAULT OF A CHILD.—Any person subject to this chapter who engages in a sexual act with a child who has attained the age of 12 years is guilty of aggravated sexual assault of a child and shall be punished as a court-martial may direct.

"(e) AGGRAVATED SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

"(f) AGGRAVATED SEXUAL ABUSE OF A CHILD.—Any person subject to this chapter who engages in a lewd act with a child is guilty of aggravated sexual abuse of a child and shall be punished as a court-martial may direct.

"(g) AGGRAVATED SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (b) (rape of a child) had the sexual contact been a sexual act, is guilty of aggravated sexual contact with a child and shall be punished as a court-martial may direct.

"(h) ABUSIVE SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

"(i) ABUSIVE SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so

would violate subsection (d) (aggravated sexual assault of a child) had the sexual contact been a sexual act, is guilty of abusive sexual contact with a child and shall be punished as a court-martial may direct.

"(j) INDECENT LIBERTY WITH A CHILD.—Any person subject to this chapter who engages in indecent liberty in the physical presence of a child—

"(1) with the intent to arouse, appeal to, or gratify the sexual desire of any person; or

"(2) with the intent to abuse, humiliate, or degrade any person;

is guilty of indecent liberty with a child and shall be punished as a court-martial may direct.

"(k) INDECENT ACT.—Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

"(l) FORCIBLE PANDERING.—Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

"(m) WRONGFUL SEXUAL CONTACT.—Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

"(n) INDECENT EXPOSURE.—Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

"(o) AGE OF CHILD.—

"(1) TWELVE YEARS.—In a prosecution under subsection (b) (rape of a child), subsection (g) (aggravated sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 12 years. It is not an affirmative defense that the accused reasonably believed that the child had attained the age of 12 years.

"(2) SIXTEEN YEARS.—In a prosecution under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 16 years. Unlike in paragraph (1), however, it is an affirmative defense that the accused reasonably believed that the child had attained the age of 16 years.

"(p) PROOF OF THREAT.—In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

"(q) MARRIAGE.—

"(1) IN GENERAL.—In a prosecution under paragraph (2) of subsection (c) (aggravated sexual assault), or under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), subsection (j) (indecent liberty with a child), subsection (m) (wrongful sexual contact), or subsection (n) (indecent exposure), it is an affirmative defense that the accused and the other person when they engaged in the sexual act, sexual contact, or sexual conduct are married to each other.

"(2) DEFINITION.—For purposes of this subsection, a marriage is a relationship, recognized by the laws of a competent State or foreign jurisdiction, between the accused and the other person as spouses. A marriage exists until it is dissolved in accordance with the laws of a competent State or foreign jurisdiction.

"(3) EXCEPTION.—Paragraph (1) shall not apply if the accused's intent at the time of the sexual conduct is to abuse, humiliate, or degrade any person.

"(r) CONSENT AND MISTAKE OF FACT AS TO CONSENT.—Lack of permission is an element of the offense in subsection (m) (wrongful sexual contact). Consent and mistake of fact as to consent are not an issue, or an affirmative defense, in a prosecution under any other subsection, except they are an affirmative defense for the sexual conduct in issue in a prosecution under subsection (a) (rape), subsection (c) (aggravated sexual assault), subsection (e) (aggravated sexual contact), and subsection (h) (abusive sexual contact).

"(s) OTHER AFFIRMATIVE DEFENSES NOT PRECLUDED.—The enumeration in this section of some affirmative defenses shall not be construed as excluding the existence of others.

"(t) DEFINITIONS.—In this section:

"(1) SEXUAL ACT.—The term 'sexual act' means—

"(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

"(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

"(2) SEXUAL CONTACT.—The term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

"(3) GRIEVOUS BODILY HARM.—The term 'grievous bodily harm' means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18.

"(4) DANGEROUS WEAPON OR OBJECT.—The term 'dangerous weapon or object' means—

"(A) any firearm, loaded or not, and whether operable or not;

"(B) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used, or is intended to be used, is known to be capable of producing death or grievous bodily harm; or

"(C) any object fashioned or utilized in such a manner as to lead the victim under the circumstances to reasonably believe it to be capable of producing death or grievous bodily harm.

"(5) FORCE.—The term 'force' means action to compel submission of another or to overcome or prevent another's resistance by—

"(A) the use or display of a dangerous weapon or object;

"(B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or

"(C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

"(6) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—The term 'threatening or placing that other person in fear' under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to death, grievous bodily harm, or kidnapping.

"(7) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—

"(A) IN GENERAL.—The term 'threatening or placing that other person in fear' under paragraph (1)(A) of subsection (c) (aggravated sexual assault), or under subsection (h) (abusive sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another being subjected to a lesser degree of harm than death, grievous bodily harm, or kidnapping.

"(B) INCLUSIONS.—Such lesser degree of harm includes—

"(i) physical injury to another person or to another person's property; or

"(ii) a threat—

"(I) to accuse any person of a crime;

"(II) to expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

"(III) through the use or abuse of military position, rank, or authority, to affect or threaten to affect, either positively or negatively, the military career of some person.

"(8) BODILY HARM.—The term 'bodily harm' means any offensive touching of another, however slight.

"(9) CHILD.—The term 'child' means any person who has not attained the age of 16 years.

"(10) LEWD ACT.—The term 'lewd act' means—

"(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

"(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

"(11) INDECENT LIBERTY.—The term 'indecent liberty' means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one's genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child's consent is not relevant.

"(12) INDECENT CONDUCT.—The term 'indecent conduct' means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person's consent, and contrary to that other person's reasonable expectation of privacy, of—

"(A) that other person's genitalia, anus, or buttocks, or (if that other person is female) that person's areola or nipple; or

"(B) that other person while that other person is engaged in a sexual act, sodomy (under section 925 (article 125)), or sexual contact.

"(13) ACT OF PROSTITUTION.—The term 'act of prostitution' means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.

"(14) CONSENT.—The term 'consent' means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. A person cannot consent to sexual activity if—

"(A) under 16 years of age; or

"(B) substantially incapable of—

"(i) appraising the nature of the sexual conduct at issue due to—

"(I) mental impairment or unconsciousness resulting from consumption of alcohol, drugs, a similar substance, or otherwise; or

"(II) mental disease or defect which renders the person unable to understand the nature of the sexual conduct at issue;

"(ii) physically declining participation in the sexual conduct at issue; or

"(iii) physically communicating unwillingness to engage in the sexual conduct at issue.

"(15) MISTAKE OF FACT AS TO CONSENT.—The term 'mistake of fact as to consent' means the accused held, as a result of ignorance or mistake, an incorrect belief that the other person engaging in the sexual conduct consented. The ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. To be reasonable the ignorance or mistake must have been based on information, or lack of it, which would indicate to a reasonable person that the other person consented. Additionally, the ignorance or mistake cannot be based on the negligent failure to discover the true facts. Negligence is the absence of due care. Due care is what a reasonably careful person would do under the same or similar circumstances. The accused's state of intoxication, if any, at the time of the offense is not relevant to mistake of fact. A mistaken belief that the other person consented must be that which a reasonably careful, ordinary, prudent, sober adult would have had under the circumstances at the time of the offense.

"(16) AFFIRMATIVE DEFENSE.—The term 'affirmative defense' means any special defense which, although not denying that the accused committed the objective acts constituting the offense charged, denies, wholly, or partially, criminal responsibility for those acts. The accused has the burden of proving the affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution shall have the burden of proving beyond a reasonable doubt that the affirmative defense did not exist.".

Amendment of Dec. 31, 2011

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 541(a), 125 Stat. 1298, 1404 (2011).

2. First codification of the amended Article: 10 U.S.C. § 920 (Supp. V. 2011).

3. Effective date of the amendment: July 1, 2012 *See* Pub. L. No. 112-81, § 541(f), 125 Stat. at 1411 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed on or after such effective date.").

4. Text of the amendment:

SEC. 541. REFORM OF OFFENSES RELATING TO RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) RAPE AND SEXUAL ASSAULT GENERALLY.--Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended as follows:

(1) REVISED OFFENSE OF RAPE.--Subsection (a) is amended to read as follows:

"(a) RAPE.--Any person subject to this chapter who commits a sexual act upon another person by--

"(1) using unlawful force against that other person;

"(2) using force causing or likely to cause death or grievous bodily harm to any person;

"(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;

"(4) first rendering that other person unconscious; or

"(5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;

is guilty of rape and shall be punished as a court-martial may direct.".

(2) REPEAL OF PROVISIONS RELATING TO OFFENSES REPLACED BY NEW ARTICLE 120B.--Subsections (b), (d), (f), (g), (i), (j), and (o) are repealed.

(3) REVISED OFFENSE OF SEXUAL ASSAULT.--Subsection (c) is redesignated as subsection (b) and is amended to read as follows:

"(b) SEXUAL ASSAULT.--Any person subject to this chapter who--

"(1) commits a sexual act upon another person by--

"(A) threatening or placing that other person in fear;

"(B) causing bodily harm to that other person;

"(C) making a fraudulent representation that the sexual act serves a professional purpose; or

"(D) inducing a belief by any artifice, pretense, or concealment that the person is another person;

"(2) commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

"(3) commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to--

"(A) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or

"(B) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person;

is guilty of sexual assault and shall be punished as a court-martial may direct.".

(4) AGGRAVATED SEXUAL CONTACT.--Subsection (e) is redesignated as subsection (c) and is amended--

(A) by striking "engages in" and inserting "commits"; and

(B) by striking "with" and inserting "upon".

(5) ABUSIVE SEXUAL CONTACT.--Subsection (h) is redesignated as subsection (d) and is amended--

(A) by striking "engages in" and inserting "commits";

(B) by striking "with" and inserting "upon"; and

(C) by striking "subsection (c) (aggravated sexual assault)" and inserting "subsection (b) (sexual assault)".

(6) REPEAL OF PROVISIONS RELATING TO OFFENSES REPLACED BY NEW ARTICLE 120C.--Subsections (k), (l), (m), and (n) are repealed.

(7) PROOF OF THREAT.--Subsection (p) is redesignated as subsection (e) and is amended—

(A) by striking "the accused made" and inserting "a person made";

(B) by striking "the accused actually" and inserting "the person actually"; and

(C) by inserting before the period at the end the following: "or had the ability to carry out the threat".

(8) DEFENSES.--Subsection (q) is redesignated as subsection (f) and is amended to read as follows:

"(f) DEFENSES.--An accused may raise any applicable defenses available under this chapter or the Rules for Court-Martial. Marriage is not a defense for any conduct in issue in any prosecution under this section.".

(9) PROVISIONS RELATING TO AFFIRMATIVE DEFENSES.--Subsections (r) and (s) are repealed.

(10) DEFINITIONS.--Subsection (t) is redesignated as subsection (g) and is amended--

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "or anus or mouth" after "vulva"; and

(ii) in subparagraph (B)—

(I) by striking "genital opening" and inserting "vulva or anus or mouth,"; and

(II) by striking "a hand or finger" and inserting "any part of the body";

(B) by striking paragraph (2) and inserting the following:

"(2) SEXUAL CONTACT.--The term 'sexual contact' means--

"(A) touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or

"(B) any touching, or causing another person to touch, either directly or through the clothing, any body part of any person, if done with an intent to arouse or gratify the sexual desire of any person.

Touching may be accomplished by any part of the body.'.

(C) by striking paragraph (4) and redesignating paragraph (3) as paragraph (4);

(D) by redesignating paragraph (8) as paragraph (3), transferring that paragraph so as to appear after paragraph (2), and amending that paragraph by inserting before the period at the end the following: ", including any nonconsensual sexual act or nonconsensual sexual contact";

(E) in paragraph (4), as redesignated by subparagraph (C), by striking the last sentence;

(F) by striking paragraphs (5) and (7);

(H) by inserting after paragraph (4), as redesignated by subparagraph (C), the following new paragraphs (5) and (6):

"(5) FORCE.--The term 'force' means--

"(A) the use of a weapon;

"(B) the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or

"(C) inflicting physical harm sufficient to coerce or compel submission by the victim.

"(6) UNLAWFUL FORCE.--The term 'unlawful force' means an act of force done without legal justification or excuse.";

(I) in paragraph (7), as redesignated by subparagraph (G)--

(i) by striking "under paragraph (3)" and all that follows through "contact),"; and

(ii) by striking "death, grievous bodily harm, or kidnapping" and inserting "the wrongful action contemplated by the communication or action.";

(J) by striking paragraphs (9) through (13);

(K) by redesignating paragraph (14) as paragraph (8) and in that paragraph—

(i) by inserting "(A)" before "The term";

(ii) by striking "words or overt acts indicating" and "sexual" in the first sentence;

(iii) by striking "accused's" in the third sentence;

(iv) by inserting "or social or sexual" before "relationship" in the fourth sentence;

(v) by striking "sexual" before "conduct" in the fourth sentence;

(vi) by striking "A person cannot consent" and all that follows through the period; and

(vii) by adding at the end the following new subparagraphs:

"(B) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph (C) or (D) of subsection (b)(1).

"(C) Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave

consent, or whether a person did not resist or ceased to resist only because of another person's actions.'; and

(L) by striking paragraphs (15) and (16).

(11) SECTION HEADING.--The heading of such section (article) is amended to read as follows:

"§ 920. Art. 120. Rape and sexual assault generally".

Amendment of Jan. 2, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 1076(f)(9), 126 Stat. 1632, 1952 (2013).

2. First codification of the amended Article: 10 U.S.C. § 920 (2018).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1076. TECHNICAL AND CLERICAL AMENDMENTS.

* * *

(f) OTHER MISCELLANEOUS AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(9) Section 920(g)(7) (article 120 of the Uniform Code of Military Justice) is amended by striking the second period at the end.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5430(a), (b), 130 Stat. 2000, 2949 (2016).

2. First codification of the amended Article: 10 U.S.C. § 920 (Supp. IV 2016).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5430. RAPE AND SEXUAL ASSAULT OFFENSES.

(a) OFFENSE OF SEXUAL ASSAULT.—Subsection (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(2) in paragraph (2)—

(A) by striking "another person when" and inserting "another person—

"(B) when "; and

(B) by inserting before subparagraph (B), as added by subparagraph (A) of this paragraph, the following new subparagraph:

"(A) without the consent of the other person; or".

(b) DEFINITIONS.—

(1) SEXUAL ACT.—Paragraph (1) of subsection (g) of such section (article) is amended to read as follows:

"(1) SEXUAL ACT.—The term 'sexual act' means—

"(A) the penetration, however slight, of the penis into the vulva or anus or mouth;

"(B) contact between the mouth and the penis, vulva, scrotum, or anus; or

"(C) the penetration, however slight, of the vulva or penis or anus of another by any part of the body or any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. ".

(2) SEXUAL CONTACT.—Paragraph (2) of such subsection is amended to read as follows:

"(2) SEXUAL CONTACT.—The term 'sexual contact' means touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, brest, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object. ".

(3) REPEAL OF DEFINITION OF BODILY HARM.—Such subsection is further amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(4) CONSENT.—Paragraph (7) of such subsection, as redesignated by paragraph (3)(B) of this subsection, is further amended—

(A) in subparagraph (A)—

(i) in the second sentence, by striking "or submission resulting from the use of force, threat of force, or placing another in fear";

(ii) by inserting after the second sentence, as amended by clause (i) of this subparagraph the following new sentence: "Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent."; and

(iii) in the last sentence, by striking "shall not" and inserting "does not";

(B) in subparagraph (B), by striking "subparagraph (B) or (D)" and inserting "subparagraph (B) or (C)"; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) in the last sentence, by striking ", or whether" and all that follows and inserting a period.

(5) INCAPABLE OF CONSENTING.—Such subsection is further amended by adding at the end the following new paragraph (8):

"(8) INCAPABLE OF CONSENTING.—The term 'incapable of consenting' means the person is—

"(A) incapable of appraising the nature of the conduct at issue; or

"(B) physically incapable of declining participation in, or communicating unwillingess to engage in, the sexual act at issue. ".

(c) RAPE AND SEXUAL ASSAULT OF A CHILD.—Subsection (h)(1) of section 920b of title 10, United States Code (article 120b of the Uniform Code of Military Justice), is amended by inserting before the period at the end the following: ", except that the term "sexual act" also includes the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person ".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(O), 131 Stat. 1283, 1598 (2017).)

2. First codification of the amended Article: 10 U.S.C. § 920 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(O) Section 920(g)(2) (article 120(g)(2)), as amended by section 5430(b) of the Military Justice Act of 2016 (130 Stat. 2949), is further amended in the first sentence by striking "brest" and inserting "breast".

[Former Art. 120a, 10 U.S.C. § 920a—Stalking.]

This Article was moved and renumbered. For the details, see the entry for Art. 130.

Art. 120a, 10 U.S.C. § 920a—Mails: deposit of obscene matter

Congress created the current Art. 120a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5431, 130 Stat. 2000, 2951 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 120a is codified at 10 U.S.C. § 920a (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 120a.

Art. 120b, 10 U.S.C. § 920b—Rape and sexual assault of a child

Congress created Art. 120b on Dec. 31, 2011, in the National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 541(b), 125 Stat. 1298, 1404 (2011). It was first codified at 10 U.S.C. § 920b (Supp. V. 2011). It became effective on July 1, 2012. *See* Pub. L. No. 112-81, § 541(f), 125 Stat. at 1411 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed on or after such effective date."). Information about amendments to Art. 120b since 2011 appears below.

Amendment of Jan. 2, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 1076(a)(3), 126 Stat. 1632, 1948 (2013).

2. First codification of the amended Article: 10 U.S.C. § 920b (Supp. I 2013).

3. Effective date of the amendment: December 31, 2011. *See* Pub. L. No. 112-239, § 1076(a), 126 Stat. at 1948.

4. Text of the amendment:

> SEC. 1076. TECHNICAL AND CLERICAL AMENDMENTS.
>
> (a) AMENDMENTS TO NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.—Effective as of December 31, 2011, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) is amended as follows:
>
> * * *
>
> (3) Section 541(b) (125 Stat. 1407) is amended by striking ", as amended by subsection (a),".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5430(c), 130 Stat. 2000, 2950 (2016).

2. First codification of the amended Article: 10 U.S.C. § 920b (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5430. RAPE AND SEXUAL ASSAULT OFFENSES.
>
> * * *
>
> (c) RAPE AND SEXUAL ASSAULT OF A CHILD.—Subsection (h)(1) of section 920b of title 10, United States Code (article 120b of the Uniform Code of Military Justice), is amended by inserting before the period at the end the following: ", except that the term "sexual act" also includes the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person".

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 565, 138 Stat 1773, 1904 (2024).

2. First codification of the amended Article: 10 U.S.C. § 920b (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 565. REMOVAL OF MARRIAGE AS A DEFENSE TO ARTICLE 120B OFFENSES.
>
> Section 920b of title 10, United States Code (article 120b of the Uniform Code of Military Justice), is amended—
>
> (1) by striking subsection (f);
>
> (2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and
>
> (3) in subsection (f), as redesignated by paragraph (2), by striking "not legally married to the person committing the sexual act, lewd act, or use of force".

Art. 120c, 10 U.S.C. § 920c—Other sexual misconduct

Congress created Art. 120c on Dec. 31, 2011, in the National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, § 541(c), 125 Stat. 1298, 1409 (2011). It was first codified at 10 U.S.C. § 920c (Supp. V. 2011). It became effective on July 1, 2012. *See* Pub. L. No. 112-81, § 541(f), 125 Stat. at 1411 ("The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to offenses committed on or after such effective date."). Congress has not amended Art. 120c since its enactment.

Art. 121, 10 U.S.C. § 921—Larceny and wrongful appropriation

Congress created Art. 121 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 140 (1950). Art. 121 originally was codified at 50 U.S.C. § 715 (1952). In 1956, as shown below, Congress directed that Art. 121 be re-codified at 10 U.S.C. § 921. Information about amendments to Art. 121 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 73 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 921 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "whatever" and "true" are omitted as surplusage. The word "it" is substituted for the words "the same" in clauses (1) and (2).

Art. 121a, 10 U.S.C. § 921a—Fraudulent use of credit cards, debit cards, and other access devices

Congress created Art. 121a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5432, 130 Stat. 2000, 2951 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 121a is codified at 10 U.S.C. § 921a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 121a.

Art. 121b, 10 U.S.C. § 921b—False pretenses to obtain services

Congress created Art. 121b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5433, 130 Stat. 2000, 2951 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 121b is codified at 10 U.S.C. § 921b (2018). It became effective on Jan. 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 121b.

Art. 122, 10 U.S.C. § 922—Robbery

Congress created Art. 122 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 140 (1950). Art. 122 originally was codified at 50 U.S.C. § 716 (1952). In 1956, as shown below, Congress directed that Art. 122 be re-codified at 10 U.S.C. § 922. Information about amendments to Art. 122 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 73 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 922 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. See Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5434, 130 Stat. 2000, 2951 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 922 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5434. ROBBERY.
>
> Section 922 of title 10, United States Code (article 122 of the Uniform Code of Military Justice), is amended to read as follows:
>
> § 922. Art. 122. Robbery
>
> "Any person subject to this chapter who takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company *2952 at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.".

Art. 122a, 10 U.S.C. § 922a—Receiving stolen property

Congress created Art. 122a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5435, 130 Stat. 2000, 2952 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 122a is codified at 10 U.S.C. § 922a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 122a.

[Former Art. 123, 10 U.S.C. § 923—Forgery]

This Article was moved and renumbered. For the details, see the entry for Art. 105.

Art. 123, 10 U.S.C. § 923—Offenses concerning Government computers

Congress created Art. 123 in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5436, 130 Stat. 2000, 2952 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 123 is codified at 10 U.S.C. § 923 (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 123.

Art. 123a, 10 U.S.C. § 923a—Making, drawing, or uttering check, draft, or order without sufficient funds

Congress created Art. 123a in the Act of Oct. 4, 1961, Pub. L. No. 87-385, § 1, 75 Stat. 814, 814 (1961). Article 123a was first codified at 10 U.S.C. § 923a (Supp. III 1961). It became effective on March 1, 1962. *See* Pub. L. No. 87-385, § 2, 75 Stat. at 814 ("This Act [enacting this section] becomes effective on the first day of the fifth month following the month in which it is enacted [October 1961]."). Congress has not amended Art. 123a.

[Former Art. 124, 10 U.S.C. § 924—Maiming]

This Article was moved and renumbered. For the details, see the entry for Art. 128a.

Art. 124 (formerly Art. 132), 10 U.S.C. § 924—Frauds against the United States

Congress created Art. 132 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 132 originally was codified at 50 U.S.C. § 726 (1952). In 1956, as shown below, Congress directed that Art. 132 be re-codified at 10 U.S.C. § 932; and in 2016 Congress renumbered Art. 132 as Art. 124 and re-codified it at 10 U.S.C. § 924. Information about amendments to Art. 132 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 75 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 932 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "it" is substituted for the words "the same" throughout the revised section.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(14), 130 Stat. 2000, 2939 (2016).

2. First codification of the amended Article: 10 U.S.C. § 924 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

* * *

(14) FRAUDS AGAINST THE UNITED STATES.—Section 932 of (article 132) is transferred so as to appear after section 923a (article 123a) and is redesignated as section 924 (article 124).

Art. 124a, 10 U.S.C. § 924a—Bribery

Congress created Art. 124a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5437, 130 Stat. 2000, 2952 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 124a is codified at 10 U.S.C. § 924a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 124a.

Art. 124b, 10 U.S.C. § 924b—Graft

Congress created Art. 124b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5438, 130 Stat. 2000, 2953 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 124b is codified at 10 U.S.C. § 924b (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 124b.

Art. 125, 10 U.S.C. § 925—Kidnapping

Congress created Art. 125 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Art. 125 originally was codified at 50 U.S.C. § 719 (1952). In 1956, as shown below, Congress

directed that Art. 125 be re-codified at 10 U.S.C. § 925. Information about amendments to Art. 125 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 74 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 925 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 1707(a), 127 Stat. 672, 961 (2013).

2. First codification of the amended Article: 10 U.S.C. § 925 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 1707. REPEAL OF THE OFFENSE OF CONSENSUAL SODOMY UNDER THE UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) RESTATEMENT OF ARTICLE 125 WITH CONSENSUAL SODOMY OMITTED.—Section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "§ 925. Art 125. Forcible sodomy; bestiality
>
> "(a) FORCIBLE SODOMY.—Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex by force or without the consent of the other person is guilty of forcible sodomy and shall be punished as a court-martial may direct.
>
> "(b) BESTIALITY.—Any person subject to this chapter who engages in unnatural carnal copulation with an animal is guilty of bestiality and shall be punished as a court-martial may direct.
>
> "(c) SCOPE OF OFFENSES.—Penetration, however slight, is sufficient to complete an offense under subsection (a) or (b).".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 531(d)(1), 128 Stat. 3292, 3364 (2014).

2. First codification of the amended Article: 10 U.S.C. § 925 (Supp II 2014).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF CERTAIN PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014 RELATING TO THE MILITARY JUSTICE SYSTEM.
>
> * * *
>
> (d) REPEAL OF OFFENSE OF CONSENSUAL SODOMY UNDER THE UNIFORM CODE OF MILITARY JUSTICE.—
>
> (1) CLARIFICATION OF DEFINITION OF FORCIBLE SODOMY.—Section 925(a) of title 10, United States Code (article 125(a) of the Uniform Code of Military Justice), as amended by section 1707 of the National Defense Authorization Act of Fiscal Year 2014 (Public Law 113-66; 127 Stat. 961), is amended by striking "force" and inserting "unlawful force".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5439, 130 Stat. 2000, 2953 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 925 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5439. KIDNAPPING.
>
> Section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice), is amended to read as follows:

Any person subject to this chapter who wrongfully—

"(1) seizes, confines, inveigles, decoys, or carries away another person; and

"(2) holds the other person against that person's will; shall be punished as a court-martial may direct.".

Art. 126, 10 U.S.C. § 926—Arson; burning property with intent to defraud

Congress created Art. 126 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Article 126 was originally codified at 50 U.S.C. § 720 (1952). In 1956, as shown below, Congress directed that Art. 126 be re-codified at 10 U.S.C. § 926. Information about amendments to Art. 126 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 74 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 926 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (b), the words "of this section" are omitted as surplusage.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5440, 130 Stat. 2000, 2953 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 926 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5440. ARSON; BURNING PROPERTY WITH INTENT TO DEFRAUD.

Section 926 of title 10, United States Code (article 126 of the Uniform Code of Military Justice), is amended to read as follows:

§ 926. Art. 126. Arson; burning property with intent to defraud

"(a) AGGRAVATED ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets on fire an inhabited *2954 dwelling, or any other structure, movable or immovable, wherein, to the knowledge of that person, there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

"(b) SIMPLE ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets fire to the property of another is guilty of simple arson and shall be punished as a court-martial may direct.

"(c) BURNING PROPERTY WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, willfully, maliciously, and with intent to defraud, burns or sets fire to any property shall be punished as a court-martial may direct.".

Art. 127, 10 U.S.C. § 927—Extortion

Congress created Art. 127 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Art. 127 originally was codified at 50 U.S.C. § 721 (1952). In 1956, as shown below, Congress directed that Art. 127 be re-codified at 10 U.S.C. § 927. Information about amendments to Art. 127 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 74 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 927 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The words "of any description" are omitted as surplusage.

Art. 128, 10 U.S.C. § 928—Assault

Congress created Art. 128 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Article 128 originally was codified at 50 U.S.C. § 722 (1952). In 1956, as shown below, Congress directed that Art. 128 be re-codified at 10 U.S.C. § 928. Information about amendments to Art. 128 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 75 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 928 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5441, 130 Stat. 2000, 2954 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 928 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5441. ASSAULT.
>
> Section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(a) ASSAULT.—Any person subject to this chapter who, unlawfully and with force or violence—
>
> "(1) attempts to do bodily harm to another person;
>
> "(2) offers to do bodily harm to another person; or

"(3) does bodily harm to another person; is guilty of assault and shall be punished as a court-martial may direct.

"(b) AGGRAVATED ASSAULT.—Any person subject to this chapter—

"(1) who, with the intent to do bodily harm, offers to do bodily harm with a dangerous weapon; or

"(2) who, in committing an assault, inflicts substantial bodily harm, or grievous bodily harm on another person; is guilty of aggravated assault and shall be punished as a court-martial may direct.

"(c) ASSAULT WITH INTENT TO COMMIT SPECIFIED OFFENSES.—

"(1) IN GENERAL.—Any person subject to this chapter who commits assault with intent to commit an offense specified in paragraph (2) shall be punished as a court-martial may direct.

"(2) OFFENSES SPECIFIED.—The offenses referred to in paragraph (1) are murder, voluntary manslaughter, rape, sexual assault, rape of a child, sexual assault of a child, robbery, arson, burglary, and kidnapping.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(P), 131 Stat. 1283, 1599 (2017).

2. First codification of the amended Article: 10 U.S.C. § 928 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(P) Section 928(b)(2) (article 128(b)(2)), as amended by section 5441 of the Military Justice Act of 2016 (130 Stat. 2954), is further amended by striking the comma after "substantial bodily harm".

Amendment of Aug. 13, 2018

1. Law amending the Article: John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, § 531(a), 132 Stat. 1636, 1759 (2018).

2. First codification of the amended Article: 10 U.S.C. § 928 (2018).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-232, § 531(b), 132 Stat. 1759 ("The amendments made by this section [enacting this section] shall take effect on January 1, 2019, immediately after the coming into effect of the amendment made by section 5441 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2954) as provided in section 5542 of that Act (130 Stat. 2967; 10 U.S.C. 801 note).").

4. Text of the amendment:

> SEC. 531. INCLUSION OF STRANGULATION AND SUFFOCATION IN CONDUCT CONSTITUTING AGGRAVATED ASSAULT FOR PURPOSES OF THE UNIFORM CODE OF MILITARY JUSTICE.
>
> (a) IN GENERAL.—Subsection (b) of section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice), is amended—
>
> (1) in paragraph (1), by striking "or" at the end;
>
> (2) in paragraph (2), by adding "or" after the semicolon; and
>
> (3) by inserting after paragraph (2) the following new paragraph:
>
> "(3) who commits an assault by strangulation or suffocation;".

Art. 128a (formerly Art. 124), 10 U.S.C. § 928a—Maiming

Congress created Art. 124 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 141 (1950). Article 124 originally was codified at 50 U.S.C. § 718 (1952). As shown below, in 1956 Congress directed that Art. 124 be re-codified at 10 U.S.C. § 924, and in 2016 Congress renumbered Art. 124 as Art. 128a and re-codified the article at 10 U.S.C. § 928a. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 74 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 924 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(13)(A), 130 Stat. 2000, 2939 (2016).

2. First codification of the amended Article: 10 U.S.C. § 928a (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (13) MAIMING.—
>
> (A) IN GENERAL.—Section 924 (article 124) is transferred so as to appear after section 928 (article 128) and is redesignated as section 928a (article 128a).

Art. 128b, 10 U.S.C. § 928b—Domestic violence

Amendment of Aug. 13, 2018

1. Law amending the Article: Congress created Art. 128b in the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, § 532(a)(1), 132 Stat. 1636, 1759-60 (2018).

2. First codification of the Article: 10 U.S.C. § 928b (2018).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-232, § 532(a)(1), 132 Stat. 1636, 1760 ("The amendments made by this section shall take effect on January 1, 2019, immediately after the coming into effect of the amendment made by section 5441 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2954) as provided in section 5542 of that Act (130 Stat. 2967; 10 U.S.C. 801 note).").

4. Text of the amendment: *See* 10 U.S.C. § 928b (2018) (providing complete original text of the Article).

Amendment of Dec. 20, 2019

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 1731(a)(20), 133 Stat. 1198, 1813 (Supp. I 2019).

2. First codification of the amended Article: 10 U.S.C. § 928b (Supp. I 2019).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1731. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(20) The heading of section 928b (article 128b of the Uniform Code of Military Justice) is amended to read as follows:

§ 928b. Art. 128b. Domestic violence".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(d)(1), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 928B (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

* * *

(d) CLARIFICATION OF APPLICABILITY OF DOMESTIC VIOLENCE AND STALKING TO DATING PARTNERS.—

(1) ARTICLE 128B; DOMESTIC VIOLENCE.—Section 928b of title 10, United States Code (article 128b of the Uniform Code of Military Justice), is amended—

(A) in the matter preceding paragraph (1), by striking "Any person" and inserting "(A) IN GENERAL.—Any person";

(B) in subsection (a), as designated by paragraph (1) of this section, by inserting "a dating partner," after "an intimate partner," each place it appears; and

(C) by adding at the end the following new subsection:

"(b) DEFINITIONS.—In this section, the terms 'dating partner', 'immediate family', and 'intimate partner' have the meanings given such terms in section 930 of this title (article 130).".

Art. 129, 10 U.S.C. § 929—Burglary; unlawful entry

Congress created Art. 129 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 129 originally was codified at 50 U.S.C. § 723 (1952). As shown below, in 1956 Congress directed that Art. 129 be re-codified at 10 U.S.C. § 929. Information about amendments to the Art. 129 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 75 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 929 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5442, 130 Stat. 2000, 2954 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 929 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5442. BURGLARY AND UNLAWFUL ENTRY.
>
> Section 929 of title 10, United States Code (article 129 of the Uniform Code of Military Justice), and section 929a of such title (article 129a), as redesignated by section 5401(10) of this Act, are amended to read as follows:
>
> § 929. Art. 129. Burglary; unlawful entry

"(a) BURGLARY.—Any person subject to this chapter who, with intent to commit an offense under this chapter, breaks and enters the building or structure of another shall be punished as a court-martial may direct.

"(b) UNLAWFUL ENTRY.—Any person subject to this chapter who unlawfully enters—

"(1) the real property of another; or

"(2) the personal property of another which amounts to a structure usually used for habitation or storage; shall be punished as a court-martial may direct.".

[Art. 129a (formerly Art. 130), 10 U.S.C. § 929a]—Omitted (formerly Housebreaking)

Congress created Art. 130 (Housebreaking) in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 130 originally was codified at 50 U.S.C. § 724 (1952). As shown below, in 1956 Congress directed that Art. 130 be re-codified at 10 U.S.C. § 930. Information about amendments to Art. 131 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 75 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 930 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5401(10), 5442, 130 Stat. 2000, 2939, 2955 (2016).

2. First codification of the amended Article: The amended article was not codified. Section 5401(10) renumbered Art. 130, making Art. 129a. But then § 5442 consolidated Art. 129a into a revised Art. 129. The U.S. Code contains the following explanation: "[R]enumbered §929a . . . , which related to the offense of housebreaking, was omitted in the general amendment of sections 929 and 929a of this title by . . . § 5442."

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act

done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (10) HOUSEBREAKING.—Section 930 (article 130) is redesignated as section 929a (article 129a).
>
> * * *
>
> SEC. 5442. BURGLARY AND UNLAWFUL ENTRY.
>
> Section 929 of title 10, United States Code (article 129 of the Uniform Code of Military Justice), and section 929a of such title (article 129a), as redesignated by section 5401(10) of this Act, are amended to read as follows:
>
> "§ 929. Art. 129. Burglary; unlawful entry
>
> "(a) BURGLARY.—Any person subject to this chapter who, with intent to commit an offense under this chapter, breaks and enters the building or structure of another shall be punished as a court-martial may direct.
>
> "(b) UNLAWFUL ENTRY.—Any person subject to this chapter who unlawfully enters—
>
> "(1) the real property of another; or
>
> "(2) the personal property of another which amounts to a structure usually used for habitation or storage; shall be punished as a court-martial may direct.".

[Former Art. 130, 10 U.S.C. § 930—Housebreaking]

This Article was moved and renumbered. For the details, see the entry for Art. 129a.

Art. 130 (formerly Art. 120a), 10 U.S.C. § 930—Stalking

Congress first created Art. 120a in the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 551(a)(1), 119 Stat. 3136, 3256 (2006). Article 120a was codified, prior to subsequent amendment, at 10 U.S.C. § 920a (Supp. V 2005). Congress did not specify when the Art. 120a became effective. In 2016 Congress renumbered Art. 120a, making it Art. 130 and re-

codifying it at 10 U.S.C. § 930 (2018). Information about amendments to the Article since 2006 appears below.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 5401(11), 5443, 130 Stat. 2000, 2939, 2955 (2016).

2. First codification of the amended Article: 10 U.S.C. § 930 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (11) STALKING.—Section 920a (article 120a) is transferred so as to appear after section 929a (article 129a), as redesignated by paragraph (10), and is redesignated as section 930 (article 130).
>
> * * *
>
> SEC. 5443. STALKING.
>
> Section 930 of title 10, United States Code (article 130 of the Uniform Code of Military Justice), as transferred and redesignated by section 5401(11) of this Act, is amended to read as follows:
>
> § 930. Art. 130. Stalking
>
> "(a) IN GENERAL.—Any person subject to this chapter—
>
> "(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;
>
> "(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner; and

"(3) whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner; is guilty of stalking and shall be punished as a court-martial may direct.

"(b) DEFINITIONS.—In this section:

"(1) The term 'conduct' means conduct of any kind, including use of surveillance, the mails, an interactive computer service, an electronic communication service, or an electronic communication system.

"(2) The term 'course of conduct' means—

"(A) a repeated maintenance of visual or physical proximity to a specific person;

"(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person; or

"(C) a pattern of conduct composed of repeated acts evidencing a continuity of purpose.

"(3) The term 'repeated', with respect to conduct, means two or more occasions of such conduct.

"(4) The term 'immediate family', in the case of a specific person, means—

"(A) that person's spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis; or

"(B) any other person living in his or her household and related to him or her by blood or marriage.

"(5) The term 'intimate partner', in the case of a specific person, means—

"(A) a former spouse of the specific person, a person who shares a child in common with the specific person, or a person who cohabits with or has cohabited as a spouse with the specific person; or

"(B) a person who has been in a social relationship of a romantic or intimate nature with the specific person, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 531(d)(2), 137 Stat. 136, 257 (2023).

2. First codification of the amended Article: 10 U.S.C. § 928B (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 531. TECHNICAL AND CONFORMING AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

* * *

(d) CLARIFICATION OF APPLICABILITY OF DOMESTIC VIOLENCE AND STALKING TO DATING PARTNERS.—

* * *

(2) ARTICLE 130; STALKING.—Section 930 of such title (article 130 of the Uniform Code of Military Justice) is amended—

(A) in subsection (a), by striking "or to his or her intimate partner" each place it appears and inserting "to his or her intimate partner, or to his or her dating partner"; and

(B) in subsection (b)—

(i) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'dating partner', in the case of a specific person, means a person who is or has been in a social relationship of a romantic or intimate nature with such specific person based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship;

"(C) the frequency of interaction between the persons involved in the relationship; and

"(D) the extent of physical intimacy or sexual contact between the persons involved in the relationship.".

Art. 131, 10 U.S.C. § 931—Perjury

Congress created Art. 131 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 131 originally was codified at 50 U.S.C. § 725 (1952). As shown below, in 1956 Congress directed that Art. 131 be re-codified at 10 U.S.C. § 931. Information about amendments to Art. 131 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 75 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 931 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

The words "in a" are inserted before the words "course of justice".

Amendment of Oct. 18, 1976

1. Law amending the Article: Act of Oct. 18, 1976, Pub. L. No. 94-550, § 3, 90 Stat. 2534, 2535 (1976).

2. First codification of the amended Article: 10 U.S.C. § 931 (1976).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Sec. 3. Section 931 of title 10, United States Code, is amended to read as follows:

" Sec. 931. Art. 131. Perjury

"Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly—,

"(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

"(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry; is guilty of perjury and shall be punished as a court-martial may direct.".

Amendment of Oct. 12, 1982

1. Law amending the Article: Act of Oct. 12, 1982, Public L. No. 97-295, § 1(13), 96 Stat. 1287 (1982).

2. First codification of the amended Article: 10 U.S.C. § 931 (1982).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Section 1. Title 10, United States Code, is amended as follows:

* * *

(13) Section 931

is amended by striking out "United States Code,".

Art. 131a, 10 U.S.C. § 931a—Subornation of perjury

Congress created Art. 131a in Added National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5444, 130 Stat. 2000, 2956 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131a is codified at 10 U.S.C. § 931a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat.

at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131a.

Art. 131b, 10 U.S.C. § 931b—Obstructing justice

Congress created Art. 131b in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5445, 130 Stat. 2000, 2956 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131b is codified at 10 U.S.C. § 931b (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131b.

Art. 131c, 10 U.S.C. § 931c—Misprision of serious offense

Congress created Art. 131c in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5446, 130 Stat. 2000, 2956 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131c is codified at 10 U.S.C. § 931c (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131c.

Art. 131d, 10 U.S.C. § 931d—Wrongful refusal to testify

Congress created Art. 131d in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5447, 130 Stat. 2000, 2957 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131d is codified at 10 U.S.C. § 931d (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the

President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131d.

Art. 131e, 10 U.S.C. § 931e—Prevention of authorized seizure of property

Congress created Art. 131e in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5448, 130 Stat. 2000, 2957 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131e is codified at 10 U.S.C. § 931e (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131e.

Art. 131f (formerly Art. 98), 10 U.S.C. § 931f—Noncompliance with procedural rules

Congress created Art. 98 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 98 originally was codified at 50 U.S.C. § 692 (1952). As shown below, in 1956 Congress directed that Art. 98 be re-codified at 10 U.S.C. § 898; and in 2016 Congress renumbered Art. 98 as Art. 131f and re-codified the article at 10 U.S.C. § 931f. Information about amendments to the Article since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 69 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 898 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code without changing its text.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5401(3), 130 Stat. 2000, 2938 (2016).

2. First codification of the amended Article: 10 U.S.C. § 931f (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5401. REORGANIZATION OF PUNITIVE ARTICLES.
>
> Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:
>
> * * *
>
> (3) NONCOMPLIANCE WITH PROCEDURAL RULES.—Section 898 (article 98) is transferred so as to appear after section 931 (article 131) and is redesignated as section 931f (article 131f).

Art. 131g, 10 U.S.C. § 931g—Wrongful interference with adverse administrative proceedings

Congress created Art. 131g in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5449, 130 Stat. 2000, 2957 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 131g is codified at 10 U.S.C. § 931g (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Congress has not amended Art. 131g.

[Former Art. 132, 10 U.S.C. § 932—Frauds against the United States]

This Article was moved and renumbered. For the details, see the entry for Art. 124.

Art. 132, 10 U.S.C. § 932—Retaliation

Congress created Art. 132 in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5450, 130 Stat. 2000, 2957 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 132 is codified at 10 U.S.C. § 932 (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Information about amendments to Art. 132 since 1950 appears below.

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(Q), 131 Stat. 1283, 1599 (2017).

2. First codification of the amended Article: 10 U.S.C. § 932 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

> SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.
>
> * * *
>
> (c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—
>
> (1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:
>
> * * *
>
> (Q) Subsection (b)(2) of section 932 (article 132), as added by section 5450 of the Military Justice Act of 2016 (130 Stat. 2957), is amended by striking "section 1034(h)" and inserting "section 1034(j)".

Art. 133, 10 U.S.C. § 933—Conduct unbecoming an officer and a gentleman

Congress created Art. 133 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 133 originally was codified at 50 U.S.C. § 727 (1952). As shown below, in 1956 Congress directed that Art. 133 be re-codified at 10 U.S.C. § 933. Information about amendments to Art. 133 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 76 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 933 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "commissioned" is inserted for clarity.

Amendment of Dec. 27, 2021

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 542, 135 Stat. 1541, 1708 (2021).

2. First codification of the amended Article: 10 U.S.C. § 933 (Supp. III 2021).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 542. CONDUCT UNBECOMING AN OFFICER.
>
> (a) IN GENERAL.—Section 933 of title 10, United States Code (article 133 of the Uniform Code of Military Justice) is amended—
>
> (1) in the section heading, by striking "and a gentleman"; and
>
> (2) by striking "and a gentleman".
>
> (b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of such title is amended by striking the item relating to section 933 (article 133) and inserting the following new item:
>
> "933. 133. Conduct unbecoming an officer.".

Art. 134, 10 U.S.C. § 934—General article

Congress created Art. 134 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 142 (1950). Article 134 originally was codified at 50 U.S.C. § 728 (1952). As shown below, in 1956 Congress directed that Art. 134 be re-codified at 10 U.S.C. § 934. Information about amendments to Art. 134 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 76 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 934 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "shall be" are inserted before the word "punished".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5451, 130 Stat. 2000, 2958 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 934 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5451. EXTRATERRITORIAL APPLICATION OF CERTAIN OFFENSES.
>
> Section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: "As used in the preceding sentence, the term "crimes and offenses not capital" includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would

constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18. ".

Art. 135, 10 U.S.C. § 935—Court of Inquiry

Congress created Art. 135 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 143 (1950). Art. 135 originally was codified at 50 U.S.C. § 731 (1952). As shown below, in 1956 Congress directed that Art. 135 be re-codified at 10 U.S.C. § 935. Information about amendments to Art. 135 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 76 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 935 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of a Department".
>
> In subsection (b), the word "commissioned" is inserted for clarity. The word "consists" is substituted for the words "shall consist".
>
> In subsection (c), the word "has" is substituted for the words "shall have".
>
> In subsection (e), the words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1.
>
> In subsection (g), the word "may" is substituted for the word "shall".
>
> In subsection (h), the word "If" is substituted for the words "In case".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5501, 130 Stat. 2000, 2960 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 935 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to

the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 5501. TECHNICAL AMENDMENTS RELATING TO COURTS OF INQUIRY.
>
> Section 935(c) of title 10, United States Code (article 135(c) of the Uniform Code of Military Justice), is amended—
>
> (1) Section 113(j)(1) is amended by striking "the Committee on" the first place it appears and all that follows through "of Representatives" and inserting "congressional defense committees".
>
> (2) by designating the second and third sentences as paragraphs (2) and (3), respectively; and
>
> (3) in paragraph (2), as so designated, by striking "subject to this chapter or employed by the Department of Defense" and inserting "who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and".

Art. 136, 10 U.S.C. § 936—Authority to Administer Oaths

Congress created Art. 136 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 143 (1950). Article 136 originally was codified at 50 U.S.C. § 732 (1952). As shown below, in 1956 Congress directed that Art. 136 be re-codified at 10 U.S.C. § 936. Information about amendments to Art. 136 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 77 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 936 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

In subsection (a), the word "may" is substituted for the words "shall have authority to". The word "shall" before the words "have the general powers" is omitted as surplusage. The words "the continental limits" are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsections (a) and (b), the words "in the armed forces" are omitted as surplusage.

In subsection (b), the word "may" is substituted for the words "shall have authority to".

In subsection (c), the words "of any character" are omitted as surplusage. The word "may" is substituted for the word "shall".

In subsection (d), the word "is" is substituted for the words "shall be".

Amendment of July 12, 1960

1. Law amending the Article: Pub. L. No. 86-589, July 5, 1960, 74 Stat. 329.

2. First codification of the amended Article: 10 U.S.C. § 936 (1964).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 936(a) of title 10, United States Code, is amended by inserting the words "by persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands," after words "wherever they may be," in the introductory clause.

Amendment of Dec. 8, 1967

1. Law amending the Article: Act of Dec. 8, 1967, Pub. L. No. 90-179, § 1(7), 81 Stat. 545, 546 (1967).

2. First codification of the amended Article: 10 U.S.C. § 936 (1964 & Supp. III 1967).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended as follows:

* * *

(7) Section 936(a)(1) is amended by deleting the words "and the Air Force" and inserting in place thereof the words ", Navy, Air Force, and Marine Corps".

Amendment of Oct. 24, 1968

1. Law amending the Article: Military Justice Act of 1968, Pub. L. No. 90-632, § 2(34), 82 Stat. 1335, 1343 (1968).

2. First codification of the amended Article: 10 U.S.C. § 936 (1964 & Supp. IV 1968).

3. Effective date of the amendment: August 1, 1969. *See* Pub. L. No. 90-632, § 4(a), 82 Stat. at 1343 ("[T]his Act shall become effective on the first day of the tenth month following the month in which it is enacted.").

4. Text of the amendment:

> Sec. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:
>
> * * *
>
> (34) Section 936(b) (article 136(b)) is amended by striking out "law officer" and inserting in lieu thereof "military judge".

Amendment of Dec. 6, 1983

1. Law amending the Article: Military Justice Act of 1983, Pub. L. No. 98-209, § 2(f), 97 Stat. 1393, 1393 (1983).

2. First codification of the amended Article: 10 U.S.C. § 936 (1982 & Supp. I 1983).

3. Effective date of amendment: August 1, 1984. *See* Pub. L. No. 98-209, § 12(a)(1), 97 Stat. at 1407 ("The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act . . . .").

4. Text of the amendment:

> Sec. 2.
>
> * * *
>
> (f) Section 936(a) (article 136(a)) is amended—,
>
> (1) in clause (1), by striking out "of the Army, Navy, Air Force, and Marine Corps"; and
>
> (2) by striking out clause (2) and redesignating clauses (3) through (7) as clauses (2) through (6), respectively.

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 804(c), 100 Stat. 3816, 3907 (1986).

2. First codification of the amended Article: 10 U.S.C. § 936 (1982 & Supp. IV 1986).

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day

period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS

* * *

(c) AUTHORITY TO ADMINISTER OATHS. —Section 936 (article 136) is amended by inserting "or performing inactive-duty training" in subsections (a) and (b) after "active duty".

Amendment of Sept. 29, 1988

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1989, Pub. L. No. 100-456, § 1234(a)(1), 102 Stat. 1918, 2059 (1988).

2. First codification of the amended Article: 10 U.S.C. § 936 (1988).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 1234. REFERENCES TO THE CANAL ZONE.

(a) TITLE 10. —Title 10, United States Code, is amended as follows:

(1) Sections * * *936(a), [and other listed sections]* * * are each amended by striking out "the Canal Zone," each place it appears.

Amendment of Nov. 5, 1990

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, § 551(b), 104 Stat. 1485, 1566 (1990).

2. First codification of the amended Article: 10 U.S.C. § 936 (1988 & Supp. II 1990).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 551. SERVICES BY NOTARIES PUBLIC

* * *

(b) CONFORMING AMENDMENTS.—Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking out ", and have the general powers" and all that follows through "United States" the third place it appears; and

(2) by striking out subsections (c) and (d).

Amendment of Jan. 28, 2008

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 542, 122 Stat. 3, 114 (2008).

2. First codification of the amended Article: 10 U.S.C. § 936 (Supp. II 2008).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 542. AUTHORITY OF JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES TO ADMINISTER OATHS.
>
> Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:
>
> "(c) The judges of the United States Court of Appeals for the Armed Forces may administer the oaths authorized by subsections (a) and (b).".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 541(a), 130 Stat. 2000, 2124, 2960 (2016).

2. First codification of the amended Article: 10 U.S.C. § 936 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 541. UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.
>
> (a) CLARIFICATION OF AUTHORITY OF JUDGES OF THE COURT TO ADMINISTER OATHS AND ACKNOWLEDGMENTS.—Subsection (c) of section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended to read as follows:
>
> "(c) Each judge and senior judge of the United States Court of Appeals for the Armed Forces shall have the powers relating to oaths, affirmations, and acknowledgments provided to justices and judges of the United States by section 459 of title 28.".

Art. 137, 10 U.S.C. § 937—Articles to be explained

Congress created Art. 137 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 144 (1950). Article 137 originally was codified at 50 U.S.C. § 733 (1952). As shown below, in 1956 Congress directed that Art. 137 be re-codified at 10 U.S.C. § 937. Information about amendments to Art. 137 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 78 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 937 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "each" is substituted for the word "every". The word "member" is substituted for the word "person". The words "in [any of] the armed forces of the United States" are omitted as surplusage.

Amendment of Nov. 14, 1986

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, § 804(d), 100 Stat. 3816, 3907 (1986).

2. First codification of the amended Article: 10 U.S.C. § 937 (1982 & Supp. IV 1986).

3. Effective date of amendment: *See* Pub. L. No. 99-661, § 808, 100 Stat. at 3909 ("[T]he amendments made by this title shall take effect on the earlier of—(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or (2) the date specified in an Executive order for such amendments to take effect.").

4. Text of the amendment:

> SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS
>
> * * *
>
> (d) ARTICLES TO BE EXPLAINED. —The text of section 937 (article 137) is amended to read as follows:
>
> "(a)(1) The sections of this title (articles of the Uniform Code of Military Justice) specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within six days after) —
>
> "(A) the member's initial entrance on active duty; or

"(B) the member's initial entrance into a duty status with a reserve component.

"(2) Such sections (articles) shall be explained again —

"(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training; and

"(B) at the time when the member reenlists.

"(3) This subsection applies with respect to sections 802, 803, 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this title (articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-139).

"(b) The text of the Uniform Code of Military Justice and of the regulations prescribed by the President under such Code shall be made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination.".

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1152, 110 Stat. 186, 468 (1996).

2. First codification of the amended Article: 10 U.S.C. § 937 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1152. TIME AFTER ACCESSION FOR INITIAL INSTRUCTION IN THE UNIFORM CODE OF MILITARY JUSTICE.

Section 937(a)(1) (article 137(a)(1)) is amended by striking out "within six days" and inserting in lieu thereof "within fourteen days".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5503, 130 Stat. 2000, 2960 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 937 (Supp. IV 2016).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 5503. ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE TO BE EXPLAINED TO OFFICERS UPON COMMISSIONING.

Section 937 of title 10, United States Code (article 137 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking "(a)(1) The sections of this title (articles of the Uniform Code of Military Justice)" and inserting " (a) ENLISTED MEMBERS.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice)";

(2) by striking subsection (b); and

(3) by adding after subsection (a) the following new subsections:

"(b) OFFICERS.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice) specified in paragraph (2) shall be carefully explained to each officer at the time of (or within six months after)—

"(A) the initial entrance of the officer on active duty as an officer; or

"(B) the initial commissioning of the officer in a reserve component.

"(2) This subsection applies with respect to the sections (articles) specified in subsection (a)(3) and such other sections (articles) as the Secretary concerned may prescribe by regulation.

"(c) TRAINING FOR CERTAIN OFFICERS.—Under regulations prescribed by the Secretary concerned, officers with the authority to convene courts-martial or to impose non-judicial punishment shall receive periodic training regarding the purposes and administration of this chapter. Under regulations prescribed by the Secretary of Defense, officers assigned to duty in a joint command or a combatant command, who have such authority, shall receive additional specialized training regarding the purposes and administration of this chapter with respect to joint commands and the combatant commands.

"(d) AVAILABILITY AND MAINTENANCE OF TEXT.—The text of this chapter (the Uniform Code of Military Justice) and the text of the regulations prescribed by the President under this chapter shall be—

"(1) made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination; and

"(2) maintained by the Secretary of Defense in electronic formats that are updated periodically and made available on the Internet. ".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 1081(c)(1)(R), 131 Stat. 1283, 1599 (2017).

2. First codification of the amended Article: 10 U.S.C. § 937 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 1081(c)(4), 131 Stat. at 1599 ("The amendments made by this subsection shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 1081. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

* * *

(c) TECHNICAL CORRECTIONS RELATED TO UNIFORM CODE OF MILITARY JUSTICE REFORM.—

(1) IN GENERAL.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), as amended by the Military Justice Act of 2016 (division E of Public Law 114-328), is further amended as follows:

* * *

(R) Section 937 (article 137), as amended by section 5503 of the Military Justice Act of 2016 (130 Stat. 2960), is further amended by striking "(the Uniform Code of Military Justice)" each place it appears as follows:

(i) In subsection (a)(1), in the matter preceding subparagraph (A)

(ii) In subsection (b), in the matter preceding subparagraph (A).

(iii) In subsection (d), in the matter preceding paragraph (1).

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 1722(f)(3), 137 Stat. 136, 671-72 (2023)

2. First codification of the amended Article: 10 U.S.C. § 802 (Supp. V 2023).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

(f) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of such title (the Uniform Code of Military Justice), is amended as follows:

* * *

(3) ARTICLES TO BE EXPLAINED.—Section 937 (article 137) is amended—

(A) in subsection (a)(1)—

(i) by striking "or" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) the member's initial entrance on active duty or into a space force active status.";

(B) in subsection (a)(2)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C); and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) after a member of Space Force has completed six months of sustained duty or in the case of a member not on sustained duty, after the member has completed basic or recruit training; and";

(C) in subsection (b)(1)(B), by inserting "or the Space Force" after "in a reserve component"; and

(D) in subsection (d), by striking "or to a member of a reserve component," and inserting ", to a member of a reserve component, or to a member of the Space Force,".

Art. 138, 10 U.S.C. § 938—Complaints of wrongs

Congress created Art. 138 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 144 (1950). Art. 138 originally was codified at 50 U.S.C. § 734 (1952). As shown below, in 1956 Congress directed that Art. 138 be re-codified at 10 U.S.C. § 938. Information about amendments to Art. 138 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 78 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 938 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The words "commanding officer" are substituted for the word "commander". The word "who" is inserted after the word "and". The word "commissioned" is inserted after the word "superior" for clarity. The words "The officer exercising general court-martial jurisdiction" are substituted for the words "That officer" for clarity. The word "send" is substituted for the word "transmit". The word "Secretary" is substituted for the word "Department" for accuracy, since the "Department", as an entity, could not act upon the complaint.

Art. 139, 10 U.S.C. § 939—Redress of injuries to property

Congress created Art. 139 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 144 (1950). Article 139 originally was codified at 50 U.S.C. § 735 (1952). As shown below, in 1956 Congress directed that Art. 139 be re-codified at 10 U.S.C. § 939. Information about amendments to Art. 139 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 78 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 939 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> In subsection (a), the words "Secretary concerned" are substituted for the words "Secretary of the Department". The word "under" is substituted for the words "subject to". The words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1. The words "it has" are substituted for the words "shall have" in the second sentence. The word "is" is substituted for the words "shall be" before the words "subject" and "conclusive". The word "commissioned" is inserted for clarity.
>
> In subsection (b), the word "If" is substituted for the word "Where". The word "considered" is substituted for the word "deemed".

Art. 140, 10 U.S.C. § 940—Delegation by the President

Congress created Art. 140 in the Act of May 5, 1950, Pub. L. No. 81-506, 64 Stat. 107, 145 (1950). Art. 140 originally was codified at 50 U.S.C. § 736 (1952). As shown below, in 1956 Congress directed that Art. 140 be re-codified at 10 U.S.C. § 940. Information about amendments to Art. 140 since 1950 appears below.

Amendment of Aug. 10, 1956

1. Law amending the Article: Act of August 10, 1956, Pub. L. No. 84-1028, § 1, 70A Stat. 1, 78 (1956).

2. *First codification of the amended Article*: 10 U.S.C. § 940 (Supp. IV 1956).

3. Effective date of amendment: January 1, 1957. *See* Act of Aug. 10, 1956, § 51, 70A Stat. at 640 ("Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.").

4. Summary of the amendment: The Act of August 10, 1956 moved this article to Title 10 of the U.S. Code and also amended its text. The Act did not indicate the changes made to the text but notes in U.S. Code (Supp. IV 1956) summarize the changes as follows:

> The word "may" is substituted for the words "is authorized to * * * to".

Art. 140a, 10 U.S.C. § 940a—Case management; data collection and accessibility

Congress created Art. 140a on Dec. 23, 2016, in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5504(a), 130 Stat. 2000, 2961 (2016). Article 140a was first codified at 10 U.S.C. § 940a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5504(b), 130 Stat. 2961 ("(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall carry out section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a). (2) STANDARDS AND CRITERIA.—Not later than 4 years after the date of the enactment of this Act, the standards and criteria under section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a), shall take effect."). Information about amendments to Art. 140a since 2016 appears below.

Amendment of Dec. 20, 2019

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 534(a), 133 Stat. 1198, 1361 (2019).

2. First codification of the amended Article: 10 U.S.C. § 940a (Supp. I 2019).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

> SEC. 534. PUBLIC ACCESS TO DOCKETS, FILINGS, AND COURT RECORDS OF COURTS-MARTIAL OR OTHER RECORDS OF TRIAL OF THE MILITARY JUSTICE SYSTEM.
>
> (a) IN GENERAL.—Section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), is amended—
>
> (1) by striking "The Secretary of Defense" and inserting "(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security,";
>
> (2) in subsection (a), as designated by paragraph (1)—
>
> (A) in the matter preceding paragraph (1), by inserting "(including with respect to the Coast Guard)" after "military justice system"; and

(B) in paragraph (4), by inserting "public" before "access to docket information"; and

(3) by adding at the end the following new subsections:

"(b) PROTECTION OF CERTAIN PERSONALLY IDENTIFIABLE INFORMATION.—Records of trial, docket information, filings, and other records made publicly accessible in accordance with the uniform standards and criteria for conduct established by the Secretary under subsection (a) shall restrict access to personally identifiable information of minors and victims of crime (including victims of sexual assault and domestic violence), as practicable to the extent *1362 such information is restricted in electronic filing systems of Federal and State courts.

"(c) INAPPLICABILITY TO CERTAIN DOCKETS AND RECORDS.—Nothing in this section shall be construed to provide public access to docket information, filings, or records that are classified, subject to a judicial protective order, or ordered sealed.".

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 543, 134 Stat. 3388, 3613 (2021).

2. First codification of the amended Article: 10 U.S.C. § 940a (Supp. II 2020).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 543. PRESERVATION OF COURT-MARTIAL RECORDS.

Section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(d) PRESERVATION OF COURT-MARTIAL RECORDS WITHOUT REGARD TO OUTCOME.—The standards and criteria prescribed by the Secretary of Defense under subsection (a) shall provide for the preservation of general and special court-martial records, without regard to the outcome of the proceeding concerned, for not fewer than 15 years.".

Art. 141, 10 U.S.C. § 941—Status

Congress enacted Art. 141 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1570 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 941 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 941 since 1989 appears below.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(a)(2), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 941 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) RENAMING OF THE COURT OF MILITARY APPEALS.—

* * *

(2) Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Forces".\

Art. 142, 10 U.S.C. § 942—Judges

Congress enacted Art. 142 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1570 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 942 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 142 since 1989 appears below.

Amendment of Nov. 5, 1990

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, § 541(f), 104 Stat. 1485, 1565 (1990).

2. First codification of the amended Article: 10 U.S.C. § 942 (1988 & Supp. II 1990).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 541. CLARIFICATION OF CERTAIN PROVISIONS IN UNIFORM CODE OF MILITARY JUSTICE

* * *

(f) COURT OF MILITARY APPEALS.—Section 942(b) of title 10, United States Code (article 142(b) of the Uniform Code of Military Justice), is amended—

(1) by striking out "civil life" in paragraph (1) and inserting in lieu thereof "civilian life"; and

(2) by adding at the end the following new paragraph:

"(4) For purposes of appointment of judges to the court, a person retired from the armed forces after 20 or more years of active service (whether or not such person is on the retired list) shall not be considered to be in civilian life.".

Amendment of Dec. 5, 1991

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, §1061(b)(1)(A)-(B), (2), 105 Stat. 1474, 1475 (1991)

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. III 1991).

3. Effective date of amendment: November 29, 1989. *See* Pub. L. No. 102-190, § 1061(b)(1)(D), 105 Stat. 1474 ("The amendments made by this paragraph shall take effect as of November 29, 1989.").

4. Text of the amendment:

SEC. 1061. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

* * *

(b) COURT OF MILITARY APPEALS.—(1)(A) Section 942(e) of title 10, United States Code, is amended—

(i) by inserting "(A)" after "(1)";

(ii) by striking out "(2)(A)" before "The chief judge of the court" and realigning the sentence beginning "The chief judge of the court" so as to appear at the end of paragraph (1)(A) (as designated by clause (i));

(iii) by striking out "a senior judge of the court" in the sentence referred to in clause (ii) and inserting in lieu thereof "an individual who is a senior judge of the court under this subparagraph";

(iv) by inserting after paragraph (1)(A) (as designated by clause (i)) the following:

"(B) If, at the time the term of a judge expires, no successor to that judge has been appointed, the chief judge of the court may call upon that judge (with that judge's consent) to continue to perform judicial duties with the court until the vacancy is filled. A judge who, upon the expiration of the judge's term, continues to perform judicial duties with the court without a break in service under this subparagraph shall be a senior judge while such service continues."; and

(v) by striking out "(B) A senior judge" and inserting in lieu thereof "(2) A senior judge".

(B) Paragraphs (3), (4), and (6) of such section are amended by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "paragraph (1)".

* * *

(2) Section 942(f) of such title is amended—

(A) in paragraph (1)—

(i) by striking out "or" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(iii) by adding at the end the following:

"(C) during a period when there is a vacancy on the court and in the opinion of the chief judge of the court such a designation is necessary for the proper dispatch of the business of the court.";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) The chief judge of the court may not request that a designation be made under paragraph (1) unless the chief judge has determined that no person is available to perform judicial duties with the court as a senior judge under subsection (e).".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 942 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *942, [and other listed sections]* * *.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1502(a)(2), 110 Stat. 186, 502 (1996).

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(2) Sections * * *942(e)(5), [and other listed sections]* * *are amended by striking out "Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

Amendment of Oct. 5, 1999

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), § 1067(1), 113 Stat. 512, 774 (1999).

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. V 1999).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1067. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON NATIONAL SECURITY OF THE HOUSE OF REPRESENTATIVES TO COMMITTEE ON ARMED SERVICES.

The following provisions of law are amended by striking "Committee on National Security" each place it appears and inserting "Committee on Armed Services':

* * *

10 USCA § 942

* * *

(1) Title 10, United States Code.

Amendment of Dec. 26, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2014, Pub. L. No. 113-66, § 531(a), 127 Stat. 672, 759 (2013).

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. I 2013).

3. Effective date of the amendment: December 26, 2013. *See* Pub. L. No. 113-66, § 531(b), 127 Stat. at 759 ("The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to appointments to the United States Court of Appeals for the Armed Forces that occur on or after that date.").

4. Text of the amendment:

SEC. 531. MODIFICATION OF ELIGIBILITY FOR APPOINTMENT AS JUDGE ON THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) MODIFICATION.—Paragraph (4) of section 942(b) of title 10, United States Code (article 142(b) of the Uniform Code of Military Justice), is amended to read as follows:

"(4) A person may not be appointed as a judge of the court within seven years after retirement from active duty as a commissioned officer of a regular component of an armed force.".

Amendment of Dec. 19, 2014

1. Law amending the Article: Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 540(a), 128 Stat. 3292, 3371 (2014).

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. II 2014).

3. Effective date of the amendment: None indicated.

4. Text of the amendment:

SEC. 540. MODIFICATION OF TERM OF JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) MODIFICATION OF TERMS.—Section 942(b)(2) of title 10, United States Code (article 142(b)(2) of the Uniform Code of Military Justice), is amended—

(1) in subparagraph (A)—

(A) by striking "March 31" and inserting "January 31";

(B) by striking "October 1" and inserting "July 31"; and

(C) by striking "September 30" and inserting "July 31"; and

(2) in subparagraph (B)—

(A) by striking "September 30" each place it appears and inserting "July 31"; and

(B) by striking "April 1" and inserting "February 1".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, §§ 541(b)(2), (c), (d), Dec. 23, 2016, 130 Stat. 2125.

2. First codification of the amended Article: 10 U.S.C. § 942 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

SEC. 541. UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

* * *

(b) MODIFICATION OF TERM OF JUDGES OF THE COURT TO RESTORE ROTATION OF JUDGES.—

* * *

(2) STAGGERING OF FUTURE APPOINTMENTS.—Section 942(b)(2) of title 10, United States Code (article 142(b)(2) of the Uniform Code of Military Justice), is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) If at the time of the appointment of a judge the date that is otherwise applicable under subparagraph (A) for the expiration of the term of service of the judge is the same as the date for the expiration of the term of service of a judge already on the court, then the term of the judge being appointed shall expire on the first July 31 after such date on which no term of service of a judge already on the court will expire.".

Art. 143, 10 U.S.C. § 943—Organization and employees

Congress enacted Art. 143 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1572 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 943 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 143 since 1989 appears below.

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, § 1061(a)(1), 106 Stat. 2315, 2503 (1992).

2. First codification of the amended Article: 10 U.S.C. § 943 (1988 & Supp. IV 1992).

3. Effective date of the amendment: October 23, 1992. *See* Pub. L. No. 102-484, § 1062(a)(2), Oct. 23, 1992, 106 Stat. at 2505 ("The amendment made by paragraph (1) shall apply with respect to any appointment which takes effect on or after the date of the enactment of this Act.")

4. Text of the amendment:

SEC. 1061. CHIEF JUDGE OF THE COURT OF MILITARY APPEALS.

(a) DESIGNATION AND TERM OF SERVICE.—(1) Section 943(a) (article 143(a)) of title 10, United States Code, is amended to read as follows:

"(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Military Appeals shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

"(A) have served for one or more years as judges of the court; and

"(B) have not previously served as chief judge.

"(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

"(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of five years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

"(4)(A) The term of a chief judge shall be terminated before the end of five years if—

"(i) the chief judge leaves regular active service as a judge of the court; or

"(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

"(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

"(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 943 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *943 [and other listed sections]* * *.

Amendment of Sept. 23, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, § 1068(b), 110 Stat. 2422, 2655 (1997).

2. First codification of the amended Article: 10 U.S.C. § 943 (Supp. II 1996).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1068. UNIFORM CODE OF MILITARY JUSTICE AMENDMENTS.

* * *

(b) EXCEPTED SERVICE APPOINTMENTS TO CERTAIN NONATTORNEY POSITIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subsection (c) of section 943 of title 10, United States Code (article 143(c) of the Uniform Code of Military Justice) is amended in paragraph (1) by inserting after the first sentence the following: "A position of employment under the Court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service.".

(2) The caption for such subsection is amended by striking out "ATTORNEY" and inserting in lieu thereof "CERTAIN".

Amendment of Nov. 18, 1997

1. Law amending the Article: Pub. L. No. 105-85, div. A, title X, § 1073(a)(11), Nov. 18, 1997, 111 Stat. 1900.

2. First codification of the amended Article: 10 U.S.C. § 943 (Supp. IV 1997).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1073. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

* * *

(11) Section 943(c) is amended—

(A) by capitalizing the initial letter of the third word of the subsection heading;

(B) in the second sentence, by striking out "Court" and inserting in lieu thereof "court"; and

(C) in the third sentence, by striking out "such positions" and inserting in lieu thereof "positions referred to in the preceding sentences".

Art. 144, 10 U.S.C. § 944—Procedure

Congress enacted Art. 144 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1572 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 944 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 144 since 1989 appears below.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 944 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *944 [and other listed sections]* * *.

Art. 145, 10 U.S.C. § 945—Annuities for judges and survivors

Congress enacted Art. 145 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1572 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 945 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 145 since 1989 appears below.

Amendment of Dec. 5, 1991

1. Law amending the Article: National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. No. 102-190, § 1061(b)(1)(C), 105 Stat. 1474 (1991)

2. First codification of the amended Article: 10 U.S.C. § 942 (Supp. III 1991).

3. Effective date of amendment: November 29, 1989. *See* Pub. L. No. 102-190, § 1061(b)(1)(D), 105 Stat. 1474 ("The amendments made by this paragraph shall take effect as of November 29, 1989.").

4. Text of the amendment:

> SEC. 1061. AMENDMENTS TO TITLE 10, UNITED STATES CODE.
>
> * * *
>
> (b) COURT OF MILITARY APPEALS.—(1) * * *
>
> (C) Section 945(a)(1) of such title is amended by adding at the end the following: "A person who continues service with the court as a senior judge under section 943(e)(1)(B) of this title (art. 143(e)(1)(B)) upon the expiration of the judge's term shall be considered to have been separated from civilian service in the Federal Government only upon the termination of that continuous service.".

Amendment of Oct. 23, 1992

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, §§ 1052(11), 1062(a)(1), 106 Stat. 2315, 2504 (1992).

2. First codification of the amended Article: 10 U.S.C. § 945 (1988 & Supp. IV 1992).

3. Effective date of the amendment: The effective date for the amendment made by Pub. L. No. 102-484, § 1052(11) is not specified. The effective date for the amendment made by Pub. L. No. 102-484, § 1062(a)(1) is October 23, 1992. *See* Pub. L. No. 102-484, § 1062(a)(2), 106 Stat. at 2505 ("The amendment made by paragraph (1) shall apply with respect to any appointment which takes effect on or after the date of the enactment of this Act.").

4. Text of the amendment:

> SEC. 1052. MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.
>
> Title 10, United States Code, is amended as follows:
>
> * * *
>
> (11) Section 945(a)(1) is amended by striking out "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))" and inserting in lieu thereof "section 942(e)(1)(B) of this title (article 142(e)(1)(B))".
>
> * * *
>
> SEC. 1062. RETIREMENT OF JUDGES OF THE COURT OF MILITARY APPEALS.
>
> (a) IN GENERAL.—(1) Section 945 (article 145) of title 10, United States Code, is amended by adding at the end the following:

"(i) ELIGIBILITY TO ELECT BETWEEN RETIREMENT SYSTEMS.—(1) This subsection applies with respect to any person who—

"(A) prior to being appointed as a judge of the United States Court of Military Appeals, performed civilian service of a type making such person subject to the Civil Service Retirement System; and

"(B) would be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986, by virtue of being appointed as such a judge, but for the fact that such person has not had a break in service of sufficient duration to be considered someone who is being reemployed by the Federal Government.

"(2) Any person with respect to whom this subsection applies shall be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986 to the same extent and in the same manner (including subject to the condition set forth in section 301(d) of such Act) as if such person's appointment constituted reemployment with the Federal Government.".

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 945 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

* * *

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *945 [and other listed sections]* * *.

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 541(e), 130 Stat. 2000, 2125 (2016).

2. First codification of the amended Article: 10 U.S.C. § 945 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889,

9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).

4. Text of the amendment:

> SEC. 541. UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.
>
> * * *
>
> (e) REPEAL OF DUAL COMPENSATION PROVISION RELATING TO JUDGES OF THE COURT.—Section 945 of title 10, United States Code (article 145 of the Uniform Code of Military Justice), is amended—
>
> (1) in subsection (d), by striking "subsection (g)(1)(B)" and inserting "subsection (f)(1)(B)";
>
> (2) by striking subsection (f); and
>
> (3) by redesignating subsections (g), (h), and (i) as subsections (f), (g), and (h), respectively.

Art. 146, 10 U.S.C. § 946—Military Justice Review Panel

Congress enacted Art. 146 on November 29, 1989, in the National Defense Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101-189, § 1301(c), 103 Stat. 1352, 1574 (1989). Its original text, prior to subsequent amendments, appears at 10 U.S.C. § 946 (Supp. I 1989). The effective date of this new article was not specified. Information about amendments to Art. 146 since 1989 appears below.

Amendment of Oct. 5, 1994

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 924(c)(1), 108 Stat. 2663, 2831 (1994).

2. First codification of the amended Article: 10 U.S.C. § 946 (1994).

3. Effective date of amendment: Not specified.

4. Text of the amendment:

> SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.
>
> * * *
>
> (c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

* * *

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections * * *946(b)(1) [and other listed sections]* * *.

Amendment of Feb. 10, 1996

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 1502(a), 110 Stat. 186, 502 (1996).

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. II 1996).

3. Effective date of amendment: Not specified

4. Text of the amendment:

SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Sections * * *946(c)(1)(A [and other listed sections]* * * are amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

Amendment of Oct. 5, 1999

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), § 1067(1), 113 Stat. 512, 774 (1999).

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. V 1999).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 1067. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON NATIONAL SECURITY OF THE HOUSE OF REPRESENTATIVES TO COMMITTEE ON ARMED SERVICES.

The following provisions of law are amended by striking "Committee on National Security" each place it appears and inserting "Committee on Armed Services':

* * *

10 USCA § 946

* * *

(1) Title 10, United States Code.

Amendment of Nov. 25, 2002

1. Law amending the Article: Homeland Security Act of 2002, Pub. L. No. 107-296, § 1704(b)(1), 116 Stat. 2135, 2314 (2002)

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. II 2002).

3. Effective date of amendment: March 1, 2003. *See* Pub. L. No. 107-296, § 1704(g), 116 Stat. at 2314 ("The amendments made by this section . . . shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security.").

4. Text of the amendment:

SEC. 1704. COAST GUARD.

* * *

(b) TITLE 10, UNITED STATES CODE.—(1) Title 10, United States Code, is amended in sections * * *946(c)(1), [and other listed sections]* * * by striking "of Transportation" each place it appears and inserting "of Homeland Security".

Amendment of Jan. 2, 2013

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 532, 126 Stat. 1632, 1726 (2013).

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. I 2013).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 532. ADDITIONAL INFORMATION IN REPORTS ON ANNUAL SURVEYS OF THE COMMITTEE ON THE UNIFORM CODE OF MILITARY JUSTICE.

Subsection (c)(2) of section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) Information from the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the following:

"(i) The appellate review process, including—

"(I) information on compliance with processing time goals;

"(II) discussions of the circumstances surrounding cases in which general court-martial or special court-martial convictions are reversed as a result of command influence or denial of the right to a speedy review or otherwise remitted due to loss of records of trial or other administrative deficiencies; and

"(III) discussions of cases in which a provision of this chapter is held unconstitutional.

"(ii) Measures implemented by each armed force to ensure the ability of judge advocates to competently participate as trial and defense counsel in, and preside as military judges over, capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

"(iii) The independent views of the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the sufficiency of resources available within their respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.".

Amendment of Dec. 23, 2016

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5521, 130 Stat. 2000, 2962 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001.

2. First codification of the amended Article: 10 U.S.C. § 946 (2018).

3. Effective date of the amendment: The amendments to this Article "shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019." 2018 Amendments to the Manual for Courts-Martial, United States, Exec. Order No. 13825, § 3(d), 83 Fed. Reg. 9889, 9889 (Mar. 1, 2018). The amendments also "shall [not] be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted." *Id.* § 3(b). *See also* Pub. L. No. 114-328, § 5542, 130 Stat. at 2909 (authorizing the President to designate the effective date of the amendments subject to certain constraints); The National Defense Authorization Act of Fiscal Year 2018, Pub. L. No. 115-91, § 531(n), 131 Stat. 1283, 1387 (2017) ("clarifying" the constraints in § 5542).d

4. Text of the amendment:

SEC. 5521. MILITARY JUSTICE REVIEW PANEL.

Section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended to read as follows:

§ 946. Art. 146. Military Justice Review Panel

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the 'Military Justice Review Panel' (in this section referred to as the 'Panel').

"(b) MEMBERS.—

"(1) NUMBER OF MEMBERS.—The Panel shall be composed of thirteen members.

"(2) APPOINTMENT OF CERTAIN MEMBERS.—Each of the following shall appoint one member of the Panel:

"(A) The Secretary of Defense (in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy).

"(B) The Attorney General.

"(C) The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps.

"(3) APPOINTMENT OF REMAINING MEMBERS BY SECRETARY OF DEFENSE.—The Secretary of Defense shall appoint the remaining members of the Panel, taking into consideration recommendations made by each of the following:

"(A) The chairman and ranking minority member of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

"(B) The Chief Justice of the United States.

"(C) The Chief Judge of the United States Court of Appeals for the Armed Forces.

"(c) QUALIFICATIONS OF MEMBERS.—The members of the Panel shall be appointed from among private United States citizens with expertise in criminal law, as well as appropriate and diverse experience in investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial, Federal civilian courts, or State courts.

"(d) CHAIR.—The Secretary of Defense shall select the chair of the Panel from among the members.

"(e) TERM; VACANCIES.—Each member shall be appointed for a term of eight years, and no member may serve more than one term. Any vacancy shall be filled in the same manner as the original appointment.

"(f) REVIEWS AND REPORTS.—

"(1) INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.—During fiscal year 2020, the Panel shall conduct an initial review and assessment of the implementation of the amendments made to this chapter during the preceding five years. In conducting the initial review and assessment, the Panel may review such other aspects of the operation of this chapter as the Panel considers appropriate.

"(2) SENTENCING DATA COLLECTION AND REPORT.—During fiscal year 2020, the Panel shall gather and analyze sentencing data collected from each of the armed forces from general and special courts-martial applying offense-based sentencing under section 856 of this title (article 56). The sentencing data shall include the number of accused who request member sentencing and the number who request sentencing by military judge alone, the offenses which the accused were convicted of, and the resulting sentence for each offense in each case. The Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall provide the sentencing data in the format and for the duration established by the chair of the Panel. Not later than October 31, 2020, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives through the Secretary of Defense a report setting forth the Panel's findings and recommendations on the need for sentencing reform.

"(3) PERIODIC COMPREHENSIVE REVIEWS.—During fiscal year 2024 and every eight years thereafter, the Panel shall conduct a comprehensive review and assessment of the operation of this chapter.

"(4) PERIODIC INTERIM REVIEWS.—During fiscal year 2028 and every eight years thereafter, the Panel shall conduct an interim review and assessment of such other aspects of the operation of this chapter as the Panel considers appropriate. In addition, at the request of the Secretary of Defense, the Panel may, at any time, review and assess other specific matters relating to the operation of this chapter.

"(5) REPORTS.—Not later than December 31 of each year during which the Panel conducts a review and assessment under this subsection, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of such review and assessment, including the Panel's findings and recommendations.

"(g) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

"(h) INFORMATION FROM FEDERAL AGENCIES.—Upon request of the chair of the Panel, a department or agency of the Federal Government shall provide information that the Panel considers necessary to carry out its duties under this section.

"(i) ADMINISTRATIVE MATTERS.—

"(1) MEMBERS TO SERVE WITHOUT PAY.—Members of the Panel shall serve without pay, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Panel.

"(2) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the Panel.

"(j) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel.".

Amendment of Dec. 12, 2017

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 531(k), 131 Stat. 1283, 1386 (2017).

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. V 2017).

3. Effective date of the amendment: January 1, 2019. *See* Pub. L. No. 115-91, § 531(p), 131 Stat. at 1388 ("The amendments made by this section shall take effect immediately after the amendments made by the Military Justice Act of 2016 (division E of Public Law 114-328) take effect as provided for in section 5542 of that Act (130 Stat. 2967).").

4. Text of the amendment:

SEC. 531. CLARIFYING AMENDMENTS RELATED TO THE UNIFORM CODE OF MILITARY JUSTICE REFORM BY THE MILITARY JUSTICE ACT OF 2016.

* * *

(k) MILITARY JUSTICE REVIEW PANEL.—Subsection (f) of section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), as added by section 5521 of the Military Justice Act of 2016 (division E of Public Law 114-328; 130 Stat. 2962), is amended—

(1) in paragraph (1), by striking "fiscal year 2020" in the first sentence and inserting "fiscal year 2021";

(2) in paragraph (2), by striking the sentence beginning "Not later than" and inserting the following new sentence: "The analysis under this paragraph shall be included in the assessment required by paragraph (1)."; and

(3) by striking paragraph (5) and inserting the following new paragraph (5):

"(5) REPORTS.—With respect to each review and assessment under this subsection, the Panel shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives. Each report—

"(A) shall set forth the results of the review and assessment concerned, including the findings and recommendations of the Panel; and

"(B) shall be submitted not later than December 31 of the calendar year in which the review and assessment is concluded.".

Amendment of Dec. 22, 2023

1. Law amending the Article: National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, § 532, Dec. 22, 2023, 137 Stat. 136, 261 (2023).

2. First codification of the amended Article: 10 U.S.C. § 946 (Supp. V 2023).

3. Effective date of the amendment: The amendment applies to appointments of members "to fill vacancies that exist due to terms of appointment expiring during the period beginning on August 1, 2030, and ending on November 30, 2030." Pub. L. 118-31, § 532(a), 137 Stat. at 261.

4. Text of the amendment:

SEC. 532. ESTABLISHMENT OF STAGGERED TERMS FOR MEMBERS OF THE MILITARY JUSTICE REVIEW PANEL.

(a) APPOINTMENT TO STAGGERED TERMS.—Subsection (b) of section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(4) ESTABLISHMENT OF STAGGERED TERMS.—Notwithstanding subsection (e), members of the Panel appointed to serve on the Panel to fill vacancies that exist due to terms of appointment expiring during the period beginning on August 1, 2030, and ending on November 30, 2030, shall be appointed to terms as follows:

"(A) Three members designated by the Secretary of Defense shall serve a term of two years.

"(B) Three members designated by the Secretary of Defense shall serve a term of four years.

"(C) Three members designated by the Secretary of Defense shall serve a term of six years.

"(D) Four members designated by the Secretary of Defense shall serve a term of eight years.".

(b) TERM; VACANCIES.—Subsection (e) of such section is amended to read as follows:

"(e) TERM; VACANCIES.—

"(1) TERM.—Subject to subsection (b)(4) and paragraphs (2) and (3) of this subsection, each member shall be appointed for a term of eight years, and no member may serve more than one term.

"(2) VACANCY.—Any vacancy in the Panel shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy in the Panel that occurs before the expiration of the term of appointment of the predecessor of such member shall be appointed for the remainder of the term of such predecessor.

"(3) AVAILABILITY OF REAPPOINTMENT FOR CERTAIN MEMBERS.—Notwithstanding paragraph (1), a member of the Panel may be appointed to a single additional term if—

"(A) the appointment of the member is to fill a vacancy described in subsection (b)(4); or

"(B) the member was initially appointed—

"(i) to a term of four years or less in accordance with subsection (b)(4); or

"(ii) to fill a vacancy that occurs before the expiration of the term of the predecessor of such member and for which the remainder of the term of such predecessor is four years or less.".

Art. 146a, 10 U.S.C. § 946a—Annual reports

Congress created Art. 146a in National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5522, 130 Stat. 2000, 2964 (2016). Sections 5001-5542 of this Act may be cited as the "Military Justice Act of 2016." *Id.* at § 5001. Article 146a is codified at 10 U.S.C. § 946a (2018). It became effective on January 1, 2019. *See* Pub. L. No. 114-328, § 5542(a), 130 Stat. at 2909 ("[T]he amendments made by this division shall take effect on the date designated by the President, which date shall be not later than the first day of the first calendar month that begins two years after the date of the enactment of this Act."); Executive Order No. 13825 § 3(a) (Mar. 1, 2018) ("Pursuant to section 5542 of the Military Justice Act of 2016 (MJA), division E of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the MJA or this order, the MJA shall take effect on January 1, 2019."). Information about amendments to Art. 146a since 2016 appears below.

Amendment of Jan. 1, 2021

1. Law amending the Article: William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 542(d), 134 Stat. 3388, 3612 (2021).

2. First codification of the amended Article: 10 U.S.C. § 946a (Supp. II 2020).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 542. QUALIFICATIONS OF JUDGES AND STANDARD OF REVIEW FOR COURTS OF CRIMINAL APPEALS.

* * *

(d) INCLUSION OF ADDITIONAL INFORMATION IN ANNUAL REPORTS.—Section 946a(b)(2) of title 10, United States Code (article 146a(b)(2) of the Uniform Code of Military Justice), is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) an analysis of each case in which a Court of Criminal Appeals made a final determination that a finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case.".

Amendment of Dec. 23, 2024

1. Law amending the Article: Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Pub L. 118-159, § 566(a), 138 Stat 1773, 1904-05 (2024).

2. First codification of the amended Article: 10 U.S.C. § 946 (2024) (forthcoming).

3. Effective date of the amendment: Not specified.

4. Text of the amendment:

SEC. 566. CONSOLIDATION OF MILITARY JUSTICE REPORTING REQUIREMENTS FOR THE MILITARY DEPARTMENTS.

(a) ANNUAL REPORTS.—Section 946a(b) of title 10, United States Code (article 146a(b) of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1), the following new paragraph:

"(2) Data on the number and status of completed cases, including—

"(A) information on race, ethnicity, rank, and sex demographic for the victim and the accused;

"(B) the enumerated offenses preferred and referred;

"(C) the types of court-martial; and

"(D) the results for each case, including cases that resulted in nonjudicial punishment or administrative separation.".