

special or general court-martial as may be appropriate. Summary courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dismissal, dishonorable or bad-conduct discharge, confinement for more than one month, hard-labor without confinement for more than 45 days, restriction to specified limits for more than two months, or forfeiture of more than two-thirds of one month's pay.

(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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 43; Pub. L. 90-632, §2(6), Oct. 24, 1968, 82 Stat. 1336; Pub. L. 114-328, div. E, title LIV, §5164, Dec. 23, 2016, 130 Stat. 2899.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 820: 50:580, May 5, 1950, ch. 169, §1 (Art. 20), 64 Stat. 114.

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".

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1968—Pub. L. 90-632 substituted provisions prohibiting trial by summary court-martial in all cases if the person objects thereto for provisions allowing such trial over the person's objection if he has previously been offered and has refused article 15 punishment.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

§ 821. Art. 21. Jurisdiction of courts-martial not exclusive

The provisions of this chapter conferring jurisdiction upon courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by military commissions, provost courts, or other military tribunals. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 109-366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 821: 50:581, May 5, 1950, ch. 169, §1 (Art. 21), 64 Stat. 115.

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".

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-366 inserted last sentence.

SUBCHAPTER V—COMPOSITION OF COURTS-MARTIAL

Table with 3 columns: Sec., Art., Description. Rows 822-829: Who may convene general courts-martial, Who may convene special courts-martial, Who may convene summary courts-martial, Special trial counsel, Who may serve on courts-martial, Number of court-martial members in capital cases, Military judge of a general or special court-martial, Military magistrates, Detail of trial counsel and defense counsel, Detail or employment of reporters and interpreters, Assembly and impaneling of members; detail of new members and military judges.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. A, title V, §531(b), Dec. 27, 2021, 135 Stat. 1693, added item 824a.

2017—Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), (B), Dec. 12, 2017, 131 Stat. 1601, amended Pub. L. 114-328, §5541(2). See 2016 Amendment note below.

2016—Pub. L. 114-328, div. E, title LXIII, §5541(2), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), (B), Dec. 12, 2017, 131 Stat. 1601, added items 825a, 826a, and 829 and struck out former items 825a "Art. 25a. Number of members in capital cases" and 829 "Art. 29. Absent and additional members".

2001—Pub. L. 107-107, div. A, title V, §582(b)(2), Dec. 28, 2001, 115 Stat. 1124, added item 825a.

1968—Pub. L. 90-632, §2(8), Oct. 24, 1968, 82 Stat. 1336, substituted "Military judge of a general or special court-martial" for "Law officer of a general court-martial" in item 826.

§ 822. Art. 22. Who may convene general courts-martial

(a) General courts-martial may be convened by—

- (1) the President of the United States;
(2) the Secretary of Defense;
(3) the commanding officer of a unified or specified combatant command;
(4) the Secretary concerned;
(5) the commanding officer of an Army Group, an Army, an Army Corps, a division, a separate brigade, or a corresponding unit of the Army or Marine Corps;

(6) the commander of a fleet; the commanding officer of a naval station or larger shore activity of the Navy beyond the United States;

(7) the commanding officer of an air command, an air force, an air division, or a separate wing of the Air Force or Marine Corps, or the commanding officer of a corresponding unit of the Space Force;

(8) any other commanding officer designated by the Secretary concerned; or

(9) any other commanding officer in any of the armed forces when empowered by the President.

(b)(1) If any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by him.

(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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 99-433, title II, §211(b), Oct. 1, 1986, 100 Stat. 1017; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 114-328, div. E, title LV, §5181, Dec. 23, 2016, 130 Stat. 2899; Pub. L. 116-283, div. A, title IX, §924(b)(21)(A), Jan. 1, 2021, 134 Stat. 3824; Pub. L. 117-81, div. A, title V, §534(a), Dec. 27, 2021, 135 Stat. 1696.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
822(a)	50:586(a).	May 5, 1950, ch. 169, §1
822(b)	50:586(b).	(Art. 22), 64 Stat. 115.

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”.

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(7). Pub. L. 116-283 substituted “Marine Corps, or the commanding officer of a corresponding unit of the Space Force” for “Marine Corps”.

Subsec. (b). Pub. L. 117-81 designated existing provisions as par. (1) and added par. (2).

2016—Subsec. (a)(6). Pub. L. 114-328 struck out “in chief” after “the commander”.

2006—Subsec. (a)(5). Pub. L. 109-163 struck out “a Territorial Department,” before “an Army Group”.

1986—Subsec. (a)(2) to (9). Pub. L. 99-433 added pars. (2) and (3) and redesignated existing pars. (2) to (7) as (4) to (9), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 effective on the date that is two years after Dec. 27, 2021, and applicable with

respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117-81, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

TRAINING FOR SEXUAL ASSAULT INITIAL DISPOSITION AUTHORITIES ON EXERCISE OF DISPOSITION AUTHORITY FOR SEXUAL ASSAULT AND COLLATERAL OFFENSES

Pub. L. 116-92, div. A, title V, §540A, Dec. 20, 2019, 133 Stat. 1365, provided that:

“(a) IN GENERAL.—The training for sexual assault initial disposition authorities on the exercise of disposition authority under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), shall include comprehensive training on the exercise of disposition authority with respect to cases for which disposition authority is withheld to such authorities pursuant to the memorandum described in subsection (b) for the purpose of promoting confidence and trust in the military justice process with respect to such cases.

“(b) MEMORANDUM DESCRIBED.—The memorandum described in this subsection is the memorandum of the Secretary of Defense titled ‘Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases’ and dated April 20, 2012, or any successor memorandum.”

§ 823. Art. 23. Who may convene special courts-martial

(a) Special courts-martial may be convened by—

(1) any person who may convene a general court-martial;

(2) the commanding officer of a district, garrison, fort, camp, station, Air Force or Space Force military installation, auxiliary air field, or other place where members of the Army, the Air Force, or the Space Force are on duty;

(3) the commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the Army;

(4) the commanding officer of a wing, group, or separate squadron of the Air Force or a corresponding unit of the Space Force;

(5) the commanding officer of any naval or Coast Guard vessel, shipyard, base, or station; the commanding officer of any Marine brigade, regiment, detached battalion, or corresponding unit; the commanding officer of any Marine barracks, wing, group, separate squadron, station, base, auxiliary air field, or other place where members of the Marine Corps are on duty;

(6) the commanding officer of any separate or detached command or group of detached units of any of the armed forces placed under a single commander for this purpose; or

(7) the commanding officer or officer in charge of any other command when empowered by the Secretary concerned.

(b)(1) If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered advisable by him.