

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”.

### Editorial Notes

#### AMENDMENTS

2024—Subsec. (b)(1). Pub. L. 118-159, §563(1), substituted “forward—” for “forward”, inserted subpar. (A) designation before “the record”, and added subpar. (B).

Subsec. (b)(2)(A). Pub. L. 118-159, §563(2)(A)(i), substituted “shall, upon written request of the accused” for “shall” in introductory provisions.

Subsec. (b)(2)(A)(i). Pub. L. 118-159, §563(2)(A)(ii), struck out “, upon request of the accused,” after “review the case and”.

Subsec. (b)(2)(A)(ii). Pub. L. 118-159, §563(2)(A)(iii), struck out “upon written request of the accused,” before “forward a copy”.

Subsec. (b)(2)(B). Pub. L. 118-159, §563(2)(B), substituted “accused” for “accused—”, struck out cl. (i) designation before “waives”, and struck out cl. (ii) which read as follows: “declines in writing the detailing of appellate defense counsel under subparagraph (A)(i).”

2021—Subsec. (e)(3)(B). Pub. L. 117-81 substituted “impracticable” for “impractical” in subpar. heading, designated existing provisions as cl. (i), inserted cl. (i) heading, substituted “Subject to clause (ii), if the Judge Advocate General” for “If the Judge Advocate General” and “impracticable” for “impractical”, and added cl. (ii).

2017—Subsec. (b)(1). Pub. L. 115-91 substituted “section 866(b)(3) of this title (article 66(b)(3))” for “section 866(b)(2) of this title (article 66(b)(2))”.

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to disposition of records.

1983—Pub. L. 98-209 amended section generally, substituting “Disposition of records” for “Disposition of records after review by the convening authority” in section catchline, and, in text, substituting provisions relating to disposition of records for prior provisions relating to disposition of records that required when the convening authority had taken final action in a general court-martial case, he had to send the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the appropriate Judge Advocate General, required that where sentences of special courts-martial included a bad-conduct discharge, the record had to be sent for review either to the officer exercising general court-martial jurisdiction over the command to be reviewed or directly to the appropriate Judge Advocate General to be reviewed by a Court of Military Review, and required that all other special and summary court-martial records had to be reviewed by a judge advocate of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or Department of Transportation, and had to be transmitted and disposed of as the Secretary concerned might prescribe by regulation.

1980—Subsec. (c). Pub. L. 96-513 substituted “Department of Transportation” for “Department of the Treasury”.

1968—Subsec. (b). Pub. L. 90-632 substituted “Court of Military Review” for “board of review” wherever appearing.

1967—Subsec. (c). Pub. L. 90-179 inserted reference to judge advocate of the Marine Corps and substituted reference to judge advocate of the Navy for reference to law specialist of the Navy.

### 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 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective immediately after the amendments made by div. E (§§ 5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115-91, 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.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98-209, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 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.

### § 866. Art. 66. Courts of Criminal Appeals

#### (a) COURTS OF CRIMINAL APPEALS.—

(1) IN GENERAL.—Each Judge Advocate General shall establish a Court of Criminal Appeals which shall be composed of one or more panels, and each such panel 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 (h). Any decision of a panel may be reconsidered by the court sitting as a whole in accordance with such rules. Appellate military judges who are assigned to a Court of Criminal Appeals 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 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. The Judge Advocate General shall designate as chief judge one of the appellate military judges of the Court of Criminal Appeals 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. 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.

(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) **REVIEW.**—

(1) **APPEALS BY ACCUSED.**—A Court of Criminal Appeals 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.

(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—

(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)).

(d) **DUTIES.**—

(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).

(B) **FACTUAL SUFFICIENCY REVIEW.**—(i) In an appeal of a finding of guilty under sub-

section (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.

(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 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.

(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.—

(i) IN GENERAL.—Subject to clause (ii), 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.

(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.

(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 of Criminal Appeals 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. 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.

(g) ACTION IN ACCORDANCE WITH DECISIONS OF COURTS.—The Judge Advocate General shall, unless there is to be further action by the President, the Secretary concerned, the Court of Appeals for the Armed Forces, or the Supreme Court, instruct the appropriate authority to take action in accordance with the decision of the Court of Criminal Appeals.

(h) RULES OF PROCEDURE.—The Judge Advocates General shall prescribe uniform rules of procedure for Courts of Criminal Appeals and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the offices of the Judge Advocates General and by Courts of Criminal Appeals.

(i) PROHIBITION ON EVALUATION OF OTHER MEMBERS OF COURTS.—No member of a Court of

Criminal Appeals 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 Criminal Appeals, 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.

(j) INELIGIBILITY OF MEMBERS OF COURTS TO REVIEW RECORDS OF CASES INVOLVING CERTAIN PRIOR MEMBER SERVICE.—No member of a Court of Criminal Appeals 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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 59; Pub. L. 90-632, §2(27), Oct. 24, 1968, 82 Stat. 1341; Pub. L. 98-209, §§7(b), (c), 10(c)(1), Dec. 6, 1983, 97 Stat. 1402, 1406; Pub. L. 103-337, div. A, title IX, §924(b)(2), (c)(1), (4)(A), Oct. 5, 1994, 108 Stat. 2831, 2832; Pub. L. 104-106, div. A, title XI, §1153, Feb. 10, 1996, 110 Stat. 468; Pub. L. 114-328, div. E, title LIX, §5330, Dec. 23, 2016, 130 Stat. 2932; Pub. L. 115-91, div. A, title V, §531(j), title X, §1081(c)(1)(K), Dec. 12, 2017, 131 Stat. 1385, 1598; Pub. L. 116-283, div. A, title V, §542(a), (b), Jan. 1, 2021, 134 Stat. 3611; Pub. L. 117-81, div. A, title V, §§539A(b), 539E(d), Dec. 27, 2021, 135 Stat. 1698, 1703; Pub. L. 117-263, div. A, title V, §544(b), Dec. 23, 2022, 136 Stat. 2582.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
866(a) .....	50:653(a).	May 5, 1950, ch. 169, §1 (Art. 66), 64 Stat. 128.
866(b) .....	50:653(b).	
866(c) .....	50:653(c).	
866(d) .....	50:653(d).	
866(e) .....	50:653(e).	
866(f) .....	50:653(f).	

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.

Editorial Notes

REFERENCES IN TEXT

Section 539E(e) of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (e)(1)(B), (C), is section 539E(e) of Pub. L. 117-81, which is set out as a note under section 856 of this title.

## AMENDMENTS

2022—Subsec. (b)(1). Pub. L. 117-263, §544(b)(1), substituted “shall have jurisdiction over—” and subpars. (A) and (B) for “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.”

Subsec. (c). Pub. L. 117-263, §544(b)(2), substituted “is timely if—” and pars. (1) and (2) for “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.”

2021—Subsec. (a). Pub. L. 116-283, §542(a), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (d)(1). Pub. L. 116-283, §542(b), amended par. (1) generally. Prior to amendment, text read as follows: “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.”

Subsec. (d)(1)(A). Pub. L. 117-81, §539E(d)(1), struck out at end “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.”

Subsec. (e). Pub. L. 117-81, §539E(d)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) provided that, in considering sentence on appeal or review, Court of Criminal Appeals may consider whether the sentence violates the law and whether the sentence is plainly unreasonable and detailed what should be included in record on appeal or review.

Subsec. (f)(1)(C). Pub. L. 117-81, §539A(b), substituted “Impracticable” for “impracticable” in subpar. heading, designated existing provisions as cl. (i), inserted cl. (i) heading, substituted “Subject to clause (ii), if the

Court of Criminal Appeals” for “If the Court of Criminal Appeals”, and added cl. (ii).

2017—Subsec. (e)(2)(C). Pub. L. 115-91, §531(j)(1), inserted “by regulation prescribed by the President or” after “required”.

Subsec. (f)(3). Pub. L. 115-91, §§531(j)(2)(A) and 1081(c)(1)(K), amended par. (3) identically, substituting “If the Court of Criminal Appeals” for “If the Court”.

Pub. L. 115-91, §531(j)(2)(B), inserted at end “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.”

2016—Pub. L. 114-328, §5330(d), substituted “Courts of Criminal Appeals” for “Review by Court of Criminal Appeals” in section catchline.

Subsec. (a). Pub. L. 114-328, §5330(e)(1), inserted heading.

Pub. L. 114-328, §5330(a), substituted “subsection (h)” for “subsection (f)”, inserted “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” after “highest court of a State”, and inserted at end “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.”

Subsecs. (b) to (f). Pub. L. 114-328, §5330(b)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) to (d) which related to referral of records in certain cases to a Court of Criminal Appeals, criteria by which a Court of Criminal Appeals may act in a referred case, and possible outcomes if a Court of Criminal Appeals sets aside the findings and sentence. Former subsecs. (e) and (f) redesignated (g) and (h), respectively.

Subsec. (g). Pub. L. 114-328, §5330(b)(1), (c), (e)(2), redesignated subsec. (e) as (g), inserted heading, substituted “appropriate authority” for “convening authority”, and struck out last sentence which read as follows: “If the Court of Criminal Appeals has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.”

Subsecs. (h) to (j). Pub. L. 114-328, §5330(b)(1), (e)(3)–(5), redesignated subsecs. (f) to (h) as (h) to (j), respectively, and inserted headings.

1996—Subsec. (f). Pub. L. 104-106 substituted “Courts of Criminal Appeals” for “Courts of Military Review” in two places.

1994—Pub. L. 103-337, §924(c)(4)(A), substituted “Court of Criminal Appeals” for “Court of Military Review” in section catchline.

Pub. L. 103-337, §924(b)(2), substituted “Court of Criminal Appeals” for “Court of Military Review” wherever appearing.

Pub. L. 103-337, §924(c)(1), substituted “Court of Appeals for the Armed Forces” for “Court of Military Appeals” in subsec. (e).

1983—Subsec. (a). Pub. L. 98-209, §7(b), inserted provision that any decision of a panel may be reconsidered by the court sitting as a whole in accordance with the rules.

Subsec. (b). Pub. L. 98-209, §7(c), amended subsec. (b) generally, designating existing provisions as par. (1), struck out provision extending applicability of provisions to sentences affecting a general or flag officer, and added par. (2).

Subsec. (e). Pub. L. 98-209, §10(c)(1), substituted “the Court of Military Appeals, or the Supreme Court” for “or the Court of Military Appeals”.

1968—Subsec. (a). Pub. L. 90-632, §2(27)(A), (B), substituted “Court of Military Review” for “board of review” in section catchline and, in subsec. (a), substituted “Court of Military Review” for “board of review” as name of reviewing body established by each Judge Advocate General, and inserted provisions setting out procedures for such Courts of Military Review, their composition and functions.

Subsecs. (b) to (e). Pub. L. 90-632, §2(27)(C), substituted “Court of Military Review” for “board of review” wherever appearing.

Subsec. (f). Pub. L. 90-632, §2(27)(D), substituted “Courts of Military Review” for “boards of review” in two places.

Subsecs. (g), (h). Pub. L. 90-632, §2(27)(E), added subsecs. (g) and (h).

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Pub. L. 103-337, div. A, title IX, §924(b)(1), Oct. 5, 1994, 108 Stat. 2831, provided that: “Each Court of Military Review shall hereafter be known and designated as a Court of Criminal Appeals.”

##### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-263 not applicable to any matter that was submitted before Dec. 23, 2022, to a Court of Criminal Appeals established under this section, see section 544(d)(1) of Pub. L. 117-263, set out as a note under section 861 of this title.

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 539A(b) of 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.

Amendment by section 539E(d) of Pub. L. 117-81 effective on the date that is two years after Dec. 27, 2021, and applicable to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after Dec. 27, 2021, see section 539E(f) of Pub. L. 117-81, set out as a note under section 853 of this title.

Pub. L. 116-283, div. A, title V, §542(e), Jan. 1, 2021, 134 Stat. 3612, provided that:

“(1) **QUALIFICATIONS OF CERTAIN JUDGES.**—The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 1, 2021], and shall apply with respect to the assignment of appellate military judges on or after that date.

“(2) **REVIEW AMENDMENTS.**—The amendments made by subsections (b) and (c) [amending this section and section 867 of this title] 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.”

##### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 531(j) of Pub. L. 115-91 effective immediately after the amendments made by div. E (§§5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115-91, set out as a note under section 801 of this title.

Amendment by section 1081(c)(1)(K) of Pub. L. 115-91 effective immediately after the amendments made by div. E (§§5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115-91, 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.

##### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but amendments by section 7(b), (c) of Pub. L. 98-209 not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98-209, set out as a note 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.

##### STATUTORY REFERENCES TO BOARD OF REVIEW DEEMED REFERENCES TO COURT OF MILITARY REVIEW

Pub. L. 90-632, §3(b), Oct. 24, 1968, 82 Stat. 1343, provided that: “Whenever the term board of review is used, with reference to or in connection with the appellate review of courts-martial cases, in any provision of Federal law (other than provisions amended by this Act) [see Short Title of 1968 Amendment note under section 801 of this title] or in any regulation, document, or record of the United States, such term shall be deemed to mean Court of Military Review [now Court of Criminal Appeals].”

#### § 867. Art. 67. Review by the Court of Appeals for the Armed Forces

(a) The Court of Appeals for the Armed Forces shall review the record in—

(1) all cases in which the sentence, as affirmed by a Court of Criminal Appeals, extends to death;

(2) all cases reviewed by a Court of Criminal Appeals which the Judge Advocate General, after appropriate notification to the other Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps, orders sent to the Court of Appeals for the Armed Forces for review; and

(3) all cases reviewed by a Court of Criminal Appeals in which, upon petition of the accused and on good cause shown, the Court of Appeals for the Armed Forces has granted a review.

(b) The accused may petition the Court of Appeals for the Armed Forces for review of a decision of a Court of Criminal Appeals within 60 days from the earlier of—

(1) the date on which the accused is notified of the decision of the Court of Criminal Appeals; or

(2) the date on which a copy of the decision of the Court of Criminal Appeals, 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 Appeals for the Armed Forces shall act upon such a petition promptly in accordance with the rules of the court.

(c)(1) In any case reviewed by it, the Court of Appeals for the Armed Forces may act only with respect to—