

the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.

(c) Appellate defense counsel shall represent the accused before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, 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 Appeals for the Armed Forces.

(d) The accused has the right to be represented before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court by civilian counsel if provided by him.

(e) Military appellate counsel shall also perform such other functions in connection with the review of court martial cases as the Judge Advocate General directs.

(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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 62; Pub. L. 90-632, §2(31), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 98-209, §10(c)(3), Dec. 6, 1983, 97 Stat. 1406; Pub. L. 103-337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 114-328, div. E, title LIX, §5334, Dec. 23, 2016, 130 Stat. 2936.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
870(a)	50:657(a).	May 5, 1950, ch. 169, §1 (Art. 70), 64 Stat. 130.
870(b)	50:657(b).	
870(c)	50:657(c).	
870(d)	50:657(d).	
870(e)	50:657(e).	

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”.

Editorial Notes

AMENDMENTS

2016—Subsec. (f). Pub. L. 114-328 added subsec. (f).

1994—Subsecs. (b) to (d). Pub. L. 103-337 substituted “Court of Criminal Appeals” for “Court of Military Review” and “Court of Appeals for the Armed Forces” for “Court of Military Appeals” wherever appearing.

1983—Subsec. (b). Pub. L. 98-209, §10(c)(3)(A), inserted provision that 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.

Subsecs. (c), (d). Pub. L. 98-209, §10(c)(3)(B), amended subsecs. (c) and (d) generally, inserting references to the Supreme Court.

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

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 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) 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.

[§ 871. Repealed. Pub. L. 114-328, div. E, title LVIII, § 5302(b)(2), Dec. 23, 2016, 130 Stat. 2923]

Section, Aug. 10, 1956, ch. 1041, 70A Stat. 62; Pub. L. 90-632, §2(32), Oct. 24, 1968, 82 Stat. 1342; Pub. L. 98-209, §5(e), Dec. 6, 1983, 97 Stat. 1399; Pub. L. 103-337, div. A, title IX, §924(c)(1), (2), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 113-66, div. A, title XVII, §1702(c)(2), Dec. 26, 2013, 127 Stat. 957, related to execution and suspension of various types of sentences.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 872. Art. 72. Vacation of suspension

(a) Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. 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. The probationer shall be represented at the hearing by counsel if the probationer so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the officer exercising general court-martial jurisdiction over the probationer. If the officer exercising general court-martial jurisdiction vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in section 857 of this title (article 57). The vacation of the suspension of a dismissal is not effective until approved by the Secretary concerned.