

(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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65; Pub. L. 114-328, div. E, title LX, §5402, Dec. 23, 2016, 130 Stat. 2939.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
879	50:673.	May 5, 1950, ch. 169, §1 (Art. 79), 64 Stat. 134.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, text read as follows: “An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.”

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.

§ 880. Art. 80. Attempts

(a) An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 65.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
880(a)	50:674(a).	May 5, 1950, ch. 169, §1 (Art. 80), 64 Stat. 134.
880(b)	50:674(b).	
880(c)	50:674(c).	

In subsection (a), the words “even though” are substituted for the word “but” for clarity.

§ 881. Art. 81. Conspiracy

(a) Any person subject to this chapter who conspires with any other person to commit an

offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

(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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66; Pub. L. 109-366, §4(b), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
881	50:675.	May 5, 1950, ch. 169, §1 (Art. 81), 64 Stat. 134.

The words “or persons” are omitted as surplusage, since under section 1 of title 1 words importing the singular may apply to several persons.

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-366 designated existing provisions as subsec. (a) and added subsec. (b).

§ 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 899 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.

(Aug. 10, 1956, ch. 1041, 70A Stat. 66; Pub. L. 114-328, div. E, title LX, §5403, Dec. 23, 2016, 130 Stat. 2939; Pub. L. 115-91, div. A, title X, §1081(c)(1)(M), Dec. 12, 2017, 131 Stat. 1598.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
882(a)	50:676(a).	May 5, 1950, ch. 169, §1, (Art. 82), 64 Stat. 134.
882(b)	50:676(b).	

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91 substituted “section 899” for “section 99” in introductory provisions.

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

tion, mutiny, misbehavior before the enemy, or sedition.

Statutory Notes and Related Subsidiaries

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.

§ 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. (Added Pub. L. 114-328, div. E, title LX, §5404, Dec. 23, 2016, 130 Stat. 2940.)

Editorial Notes

PRIOR PROVISIONS

A prior section 883 was renumbered section 904a of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 884. Art. 84. Breach of medical quarantine

Any person subject to this chapter—

- (1) who is ordered into medical quarantine by a person authorized to issue such order; and
- (2) who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority;

shall be punished as a court-martial may direct. (Added Pub. L. 114-328, div. E, title LX, §5405, Dec. 23, 2016, 130 Stat. 2940.)

Editorial Notes

PRIOR PROVISIONS

A prior section 884 was renumbered section 904b of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 885. Art. 85. Desertion

(a) Any member of the armed forces who—

(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) without being regularly separated from one of the armed forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States;

is guilty of desertion.

(b) Any commissioned officer of the armed forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
885(a)	50:679(a).	May 5, 1950, ch. 169, §1
885(b)	50:679(b).	(Art. 85), 64 Stat. 135.
885(c)	50:679(c).	

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”.

§ 886. Art. 86. Absence without leave

Any member of the armed forces who, without authority—

(1) fails to go to his appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
886	50:680.	May 5, 1950, ch. 169, §1
		(Art. 86), 64 Stat. 135.