

Armed Forces] whose terms of service on such court end after Sept. 28, 1988, and to survivors of such judges, see section 1301(f) of Pub. L. 101-189, set out as a Transitional Provisions note under section 942 of this title.

ADDITIONAL ELECTIONS

Pub. L. 102-484, div. A, title X, §1062(b), Oct. 23, 1992, 106 Stat. 2505, provided that:

“(1) Any individual who is a judge in active service on the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] shall be eligible to make an election under section 301(a)(2) of the Federal Employees’ Retirement System Act of 1986 [Pub. L. 99-335, 5 U.S.C. 8331 note] if—

“(A) such individual is such a judge on the date of the enactment of this Act [Oct. 23, 1992]; and

“(B) as of the date of the election, such individual is—

“(i) subject to the Civil Service Retirement System; or

“(ii) covered by Social Security but not subject to the Federal Employees’ Retirement System.

“(2) An election under this subsection—

“(A) shall not be effective unless it is—

“(i) made within 30 days after the date of the enactment of this Act; and

“(ii) in compliance with the condition set forth in section 301(d) of the Federal Employees’ Retirement System Act of 1986 [Pub. L. 99-335, 5 U.S.C. 8331 note]; and

“(B) may not be revoked.

“(3) For the purpose of this subsection, a judge of the United States Court of Military Appeals [now United States Court of Appeals for the Armed Forces] shall be considered to be ‘covered by Social Security’ if such judge’s service is employment for the purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of the Internal Revenue Code of 1986 [26 U.S.C. 3101 et seq.]”

§ 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.

(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.

(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.—

(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.

(f) REVIEWS AND REPORTS.—

(1) INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.—During fiscal year 2021, 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. The analysis under this paragraph shall be included in the assessment required by paragraph (1).

(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.**—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.

(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) **CHAPTER 10 OF TITLE 5.**—Chapter 10 of title 5 shall not apply to the Panel.

(Added Pub. L. 101-189, div. A, title XIII, §1301(c), Nov. 29, 1989, 103 Stat. 1574; amended Pub. L. 103-337, div. A, title IX, §924(c)(1), Oct. 5, 1994, 108 Stat. 2831; Pub. L. 104-106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112-239, div. A, title V, §532, Jan. 2, 2013, 126 Stat. 1726; Pub. L. 114-328, div. E, title LXII, §5521, Dec. 23, 2016, 130 Stat. 2962; Pub. L. 115-91, div. A, title V, §531(k), Dec. 12, 2017, 131 Stat. 1386; Pub. L. 117-286, §4(a)(46), Dec. 27, 2022, 136 Stat. 4310; Pub. L. 118-31, div. A, title V, §532, Dec. 22, 2023, 137 Stat. 260.)

Editorial Notes

AMENDMENTS

2023—Subsec. (b)(4). Pub. L. 118-31, §532(a), added par. (4).

Subsec. (e). Pub. L. 118-31, §532(b), amended subsec. (e) generally. Prior to amendment, text read as follows: “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.”

2022—Subsec. (j). Pub. L. 117-286 substituted “Chapter 10 of Title 5” for “Federal Advisory Committee Act” in heading and “Chapter 10 of title 5” for “The Federal Advisory Committee Act (5 U.S.C. App.)” in text.

2017—Subsec. (f)(1). Pub. L. 115-91, §531(k)(1), substituted “fiscal year 2021” for “fiscal year 2020”.

Subsec. (f)(2). Pub. L. 115-91, §531(k)(2), substituted “The analysis under this paragraph shall be included in the assessment required by paragraph (1).” for “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.”

Subsec. (f)(5). Pub. L. 115-91, §531(k)(3), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “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.”

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to establishment, membership, and duties of Code committee.

2013—Subsec. (c)(2)(B), (C). Pub. L. 112-239 added subpar. (B) and redesignated former subpar. (B) as (C).

2002—Subsec. (c)(1)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (c)(1)(A). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (c)(1)(A). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

1994—Subsec. (b)(1). Pub. L. 103-337 substituted “Court of Appeals for the Armed Forces” for “Court of Military Appeals”.

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 531(p) 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 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

FULL FUNCTIONALITY OF MILITARY JUSTICE REVIEW PANEL

Pub. L. 117-81, div. A, title V, §549E, Dec. 27, 2021, 135 Stat. 1726, provided that: "Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall establish or reconstitute, maintain, and ensure the full functionality of the Military Justice Review Panel established pursuant to section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice)) [sic]."

§ 946a. Art. 146a. Annual reports

(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of completed and pending cases before the Court, and such other matters as the Court considers appropriate regarding the operation of this chapter.

(b) SERVICE REPORTS.—Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

- (1) Data on the number and status of pending cases.
- (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.

(3) Information on the appellate review process, including—

- (A) information on compliance with processing time goals;
- (B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies;
- (C) an analysis of each case in which a provision of this chapter was held unconstitutional; and

(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.

(4)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates—

- (i) to participate competently as trial counsel and defense counsel in cases under this chapter;
- (ii) to preside as military judges in cases under this chapter; and
- (iii) to perform the duties of Special Victims' Counsel, when so designated under section 1044e of this title.

(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

(5) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

(6) Such other matters regarding the operation of this chapter as may be appropriate.

(c) SUBMISSION.—Each report under this section shall be submitted—

- (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and
- (2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.

(Added Pub. L. 114-328, div. E, title LXII, §5522, Dec. 23, 2016, 130 Stat. 2964; amended Pub. L. 116-283, div. A, title V, §542(d), Jan. 1, 2021, 134 Stat. 3612; Pub. L. 118-159, div. A, title V, §566(a), Dec. 23, 2024, 138 Stat. 1904.)

Editorial Notes

AMENDMENTS

- 2024—Subsec. (b)(2) to (6). Pub. L. 118-159 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.
- 2021—Subsec. (b)(2)(D). Pub. L. 116-283 added subpar. (D).

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. 13825, set out as notes under section 801 of this title.

CHAPTER 47A—MILITARY COMMISSIONS

Subchapter	Sec.
I. General Provisions	948a.