

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118-159, div. A, title V, § 567(b), Dec. 23, 2024, 138 Stat. 1905, provided that:

“(1) IN GENERAL.—The amendments made by subsection (a) [amending this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Dec. 23, 2024].

“(2) APPLICABILITY TO EXISTING CIVILIAN JUDGES.—The term of any civilian judge of the United States Court of Military Commission Review who will have served as such a judge for a period of 10 or more years as of the effective date described in paragraph (1) shall expire on such effective date.”

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-232, div. A, title V, § 541(b), Aug. 13, 2018, 132 Stat. 1762, provided that: “The amendment made by subsection (a) [amending this section] shall apply to each judge of the United States Court of Military Commission Review serving on that court on the date of the enactment of this Act [Aug. 13, 2018] and each judge assigned or appointed to that court on or after such date.”

§ 950g. Review by United States Court of Appeals for the District of Columbia Circuit; writ of certiorari to Supreme Court

(a) EXCLUSIVE APPELLATE JURISDICTION.—Except as provided in subsection (b), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority and, where applicable, as affirmed or set aside as incorrect in law by the United States Court of Military Commission Review) under this chapter.

(b) EXHAUSTION OF OTHER APPEALS.—The United States Court of Appeals for the District of Columbia Circuit may not review a final judgment described in subsection (a) until all other appeals under this chapter have been waived or exhausted.

(c) TIME FOR SEEKING REVIEW.—A petition for review by the United States Court of Appeals for the District of Columbia Circuit must be filed in the Court of Appeals—

(1) not later than 20 days after the date on which written notice of the final decision of the United States Court of Military Commission Review is served on the parties; or

(2) if the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the United States Court of Military Commission Review, not later than 20 days after the date on which such notice is submitted.

(d) SCOPE AND NATURE OF REVIEW.—The United States Court of Appeals for the District of Columbia Circuit may act under this section only with respect to the findings and sentence as approved by the convening authority and as affirmed or set aside as incorrect in law by the United States Court of Military Commission Review, and shall take action only with respect to matters of law, including the sufficiency of the evidence to support the verdict.

(e) REVIEW BY SUPREME COURT.—The Supreme Court may review by writ of certiorari pursuant to section 1254 of title 28 the final judgment of

the United States Court of Appeals for the District of Columbia Circuit under this section.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2603; amended Pub. L. 112-81, div. A, title X, § 1034(d), Dec. 31, 2011, 125 Stat. 1573.)

Editorial Notes

PRIOR PROVISIONS

A prior section 950g, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court, prior to the general amendment of this chapter by Pub. L. 111-84.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81, § 1034(d)(1), inserted “as affirmed or set aside as incorrect in law by” after “where applicable.”

Subsec. (c). Pub. L. 112-81, § 1034(d)(2)(A), substituted “in the Court of Appeals—” for “by the accused in the Court of Appeals not later than 20 days after the date on which—” in introductory provisions.

Subsec. (c)(1). Pub. L. 112-81, § 1034(d)(2)(B), inserted “not later than 20 days after the date on which” before “written notice” and substituted “on the parties” for “on the accused or on defense counsel”.

Subsec. (c)(2). Pub. L. 112-81, § 1034(d)(2)(C), inserted “if” before “the accused submits” and inserted before period at end “, not later than 20 days after the date on which such notice is submitted”.

§ 950h. Appellate counsel

(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

(1) shall represent the United States in any appeal or review proceeding under this chapter before the United States Court of Military Commission Review; and

(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the United States Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (7) of that section.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2604.)

Editorial Notes

PRIOR PROVISIONS

A prior section 950h, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2622, related to appellate counsel,