

“(c) USE OF CIVILIAN EMPLOYEES TO ADVISE LESS EXPERIENCED JUDGE ADVOCATES IN PROSECUTION AND DEFENSE.—The Secretary concerned may use highly qualified experts and other civilian employees who are under the jurisdiction of the Secretary concerned, are available, and are experienced in the prosecution or defense of complex criminal cases to provide assistance to, and consult with, less experienced judge advocates throughout the court-martial process.

“(d) PILOT PROGRAMS ON PROFESSIONAL DEVELOPMENTAL PROCESS FOR JUDGE ADVOCATES.—

“(1) PURPOSE.—The Secretary concerned shall carry out a pilot program to assess the feasibility and advisability of a military justice career track for judge advocates under the jurisdiction of the Secretary.

“(2) ADDITIONAL MATTERS.—A pilot program may also assess such other matters related to professional military justice development for judge advocates as the Secretary concerned considers appropriate.

“(3) DURATION.—Each pilot program shall be for a period of five years.

“(4) ELEMENTS.—Each pilot program shall include the following:

“(A) A military justice career track for judge advocates that leads to judge advocates with military justice expertise in the grade of colonel, or in the grade of captain in the case of judge advocates of the Navy.

“(B) The use of skill identifiers to identify judge advocates for participation in the pilot program from among judge advocates having appropriate skill and experience in military justice matters.

“(C) Guidance for promotion boards considering the selection for promotion of officers participating in the pilot program in order to ensure that judge advocates who are participating in the pilot program have the same opportunity for promotion as all other judge advocate officers being considered for promotion by such boards.

“(D) Such other matters as the Secretary concerned considers appropriate.

“(5) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 23, 2016], the Secretary concerned shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs conducted under this section. The report shall include the following:

“(A) A description and assessment of each pilot program.

“(B) Such recommendations as the Secretary considers appropriate in light of the pilot programs, including whether any pilot program should be extended or made permanent.

“(e) SECRETARY CONCERNED DEFINED.—In this section, the term ‘Secretary concerned’ has the meaning given that term in section 101(a)(9) of title 10, United States Code.”

§ 828. Art. 28. Detail or employment of reporters and interpreters

Under such regulations as the Secretary concerned may prescribe, the convening authority of a court-martial, military commission, or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court or commission. Under like regulations the convening authority of a court-martial, military commission, or court of inquiry may detail or employ interpreters who shall interpret for the court or commission. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 109-366, §4(a)(2), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
828	50:592.	May 5, 1950, ch. 169, §1 (Art. 28), 64 Stat. 117.

The words “Secretary concerned” are substituted for the words “Secretary of the Department”. The words, “detail or employ” are substituted for the word “appointment”, since the filling of the position involved is not appointment to an office in the constitutional sense.

AMENDMENTS

2006—Pub. L. 109-366 inserted last sentence.

§ 829. Art. 29. Absent and additional members

(a) No member of a general or special court-martial may be absent or excused after the court has been assembled for the trial of the accused unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.

(b)(1) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below the applicable minimum number of members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than the applicable minimum number of members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(2) In this section, the term “applicable minimum number of members” means five members or, in a case in which the death penalty may be adjudged, the number of members determined under section 825a of this title (article 25a).

(c) Whenever a special court-martial, other than a special court-martial composed of a military judge only, is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, if any, the accused and counsel for both sides.

(d) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of section 816(1)(B) or (2)(C) of this title (article 16(1)(B) or (2)(C)), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 90-632, §2(11), Oct. 24, 1968, 82 Stat. 1337; Pub. L. 98-209, §3(d), Dec. 6, 1983, 97 Stat. 1394; Pub. L.