

Pub. L. 90-632, set out as a note under section 801 of this title.

§ 843. Art. 43. Statute of limitations

(a) A person charged with absence without leave or missing movement in time of war, with murder, rape or sexual assault, or rape or sexual assault of a child, or with any other offense punishable by death, may be tried and punished at any time without limitation.

(b)(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received during the life of the child or within ten years after the date on which the offense was committed, whichever provides a longer period, by an officer exercising summary court-martial jurisdiction with respect to that person.

(B) In subparagraph (A), the term “child abuse offense” means an act that involves abuse of a person who has not attained the age of 16 years and constitutes any of the following offenses:

(i) Any offense in violation of section 920, 920a, 920b, 920c, or 930 of this title (article 120, 120a, 120b, 120c, or 130), unless the offense is covered by subsection (a).

(ii) Maiming in violation of section 928a of this title (article 128a).

(iii) Aggravated assault, assault consummated by a battery, or assault with intent to commit specified offenses in violation of section 928 of this title (article 128).

(iv) Kidnapping in violation of section 925 of this title (article 125).

(C) In subparagraph (A), the term “child abuse offense” includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117 of title 18 or under section 1591 of that title.

(3) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).

(d) Periods in which the accused was absent from territory in which the United States has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

(e) For an offense the trial of which in time of war is certified to the President by the Secretary concerned to be detrimental to the prosecution of the war or inimical to the national security, the period of limitation prescribed in this article is extended to six months after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

(f) When the United States is at war, the running of any statute of limitations applicable to any offense under this chapter—

(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not;

(2) committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States; or

(3) committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency;

is suspended until three years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

(g)(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations—

(A) has expired; or

(B) will expire within 180 days after the date of dismissal of the charges and specifications,

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

(2) The conditions referred to in paragraph (1) are that the new charges and specifications must—

(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications).

(h) FRAUDULENT ENLISTMENT OR APPOINTMENT.—A person charged with fraudulent enlistment or fraudulent appointment under section 904a(1) of this title (article 104a(1)) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

(1) In the case of an enlisted member, during the period of the enlistment or five years, whichever provides a longer period.

(2) In the case of an officer, during the period of the appointment or five years, whichever provides a longer period.

(i) DNA EVIDENCE.—If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

(Aug. 10, 1956, ch. 1041, 70A Stat. 51; Pub. L. 99-661, div. A, title VIII, § 805(a), (b), Nov. 14, 1986, 100 Stat. 3908; Pub. L. 108-136, div. A, title V, § 551, Nov. 24, 2003, 117 Stat. 1481; Pub. L. 109-163, div. A, title V, §§ 552(e), 553, Jan. 6, 2006, 119 Stat. 3263, 3264; Pub. L. 109-364, div. A, title X, § 1071(a)(4), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111-383, div. A, title X, § 1075(b)(14), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112-81, div. A, title V, § 541(d)(1), Dec. 31, 2011, 125 Stat. 1410; Pub. L. 112-239, div. A, title X, § 1076(f)(8), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113-66, div. A, title XVII, § 1703(a), (b), Dec. 26, 2013, 127 Stat. 958; Pub. L. 113-291, div. A, title V, § 531(d)(2)(A), Dec. 19, 2014, 128 Stat. 3364; Pub. L. 114-328, div. E, title LVII, § 5225(a)-(e), Dec. 23, 2016, 130 Stat. 2909, 2910; Pub. L. 115-91, div. A, title X, § 1081(c)(1)(E), Dec. 12, 2017, 131 Stat. 1598.)

AMENDMENT OF SECTION

Pub. L. 114-328, div. E, title LVII, § 5225(e), title LXIII, § 5542, Dec. 23, 2016, 130 Stat. 2910, 2967, provided that, effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, this section is amended as follows:

(1) in subsection (a), by inserting “No Limitation for Certain Offenses.—” after “(a)”;

(2) in subsection (b), by inserting “Five-year Limitation for Trial by Court-martial.—” after “(b)”;

(3) in subsection (c), by inserting “Tolling for Absence Without Leave or Flight From Justice.—” after “(c)”;

(4) in subsection (d), by inserting “Tolling for Absence From US or Military Jurisdiction.—” after “(d)”;

(5) in subsection (e), by inserting “Extension for Offenses in Time of War Detrimental to Prosecution of War.—” after “(e)”;

(6) in subsection (f), by inserting “Extension for Other Offenses in Time of War.—” after “(f)”;

(7) in subsection (g), by inserting “Defective or Insufficient Charges.—” after “(g)”.

See 2016 Amendment note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
843(a)	50:618(a).	May 5, 1950, ch. 169, § 1 (Art. 43), 64 Stat. 121.
843(b)	50:618(b).	
843(c)	50:618(c).	
843(d)	50:618(d).	
843(e)	50:618(e).	
843(f)	50:618(f).	

In subsection (b), the word “inclusive” is omitted as surplusage.

In subsections (b) and (c), the words “is not” are substituted for the words “shall not be”.

In subsection (e), the words “For an” are substituted for the words “In the case of any”. The word “is” is substituted for the words “shall be”. The words “Secretary concerned” are substituted for the words “Secretary of the Department”.

In subsection (f), the word “is” is substituted for the words “shall be”.

AMENDMENTS

2017—Subsec. (i). Pub. L. 115-91 substituted “DNA EVIDENCE” for “DNA EVIDENCE” in heading.

2016—Pub. L. 114-328, § 5225(e), inserted headings in subsecs. (a) to (g).

Subsec. (b)(2)(A). Pub. L. 114-328, § 5225(a), substituted “ten years” for “five years”.

Subsec. (b)(2)(B)(i) to (v). Pub. L. 114-328, § 5225(d), added pars. (i) to (iv) and struck out former pars. (i) to (v) which read as follows:

“(i) Any offense in violation of section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c), unless the offense is covered by subsection (a).

“(ii) Maiming in violation of section 924 of this title (article 124).

“(iii) Forcible sodomy in violation of section 925 of this title (article 125).

“(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

“(v) Kidnaping, assault with intent to commit murder, voluntary manslaughter, rape, or forcible sodomy, or indecent acts in violation of section 934 of this title (article 134).”

Subsec. (h). Pub. L. 114-328, § 5225(b), added subsec. (h).

Subsec. (i). Pub. L. 114-328, § 5225(c), added subsec. (i). 2014—Subsec. (b)(2)(B)(iii). Pub. L. 113-291, § 531(d)(2)(A)(i), substituted “Forcible sodomy” for “Sodomy”.

Subsec. (b)(2)(B)(v). Pub. L. 113-291, § 531(d)(2)(A)(ii), substituted “forcible sodomy” for “sodomy”.

2013—Subsec. (a). Pub. L. 113-66, § 1703(a), substituted “rape or sexual assault, or rape or sexual assault of a child” for “rape, or rape of a child”.

Subsec. (b)(2)(B)(i). Pub. L. 113-66, § 1703(b), inserted “, unless the offense is covered by subsection (a)” before period at end.

Subsec. (b)(2)(B)(v). Pub. L. 112-239 substituted “Kidnaping,” for “Kidnaping,.”

2011—Subsec. (b)(2)(B)(i). Pub. L. 112-81, § 541(d)(1)(A), substituted “section 920, 920a, 920b, or 920c of this title (article 120, 120a, 120b, or 120c)” for “section 920 of this title (article 120)”.

Subsec. (b)(2)(B)(v). Pub. L. 112-81, § 541(d)(1)(B), struck out “indecent assault” after “Kidnaping,” and “or liberties with a child” after “indecent acts”.

Pub. L. 111-383 substituted “Kidnaping, indecent assault,” for “Kidnaping; indecent assault;”.

2006—Subsec. (a). Pub. L. 109-163, § 553(a), substituted “with murder or rape, or with any other offense punishable by death” for “or with any offense punishable by death”.

Pub. L. 109-163, § 552(e), substituted “, rape, or rape of a child,” for “or rape,.”

Subsec. (b)(2)(A). Pub. L. 109-163, § 553(b)(1), substituted “during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period,” for “before the child attains the age of 25 years”.

Subsec. (b)(2)(B). Pub. L. 109-163, § 553(b)(2)(A), struck out “sexual or physical” before “abuse of a person” in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 109-163, § 553(b)(2)(B), substituted “Any offense” for “Rape or carnal knowledge”.

Subsec. (b)(2)(B)(iii). Pub. L. 109-364, § 1071(a)(4)(A), substituted “125” for “126”.

Subsec. (b)(2)(B)(v). Pub. L. 109-163, § 553(b)(2)(C), substituted “Kidnaping; indecent assault;” for “Indecent assault,.”

Subsec. (b)(2)(C). Pub. L. 109-364, § 1071(a)(4)(B), substituted “under chapter 110 or 117 of title 18 or under section 1591 of that title” for “under chapter 110 or 117, or under section 1591, of title 18”.

Pub. L. 109-163, § 553(b)(3), added subpar. (C).

2003—Subsec. (b)(2), (3). Pub. L. 108-136 added par. (2) and redesignated former par. (2) as (3).

1986—Subsecs. (a) to (c). Pub. L. 99-661, § 805(a), amended subsecs. (a) to (c) generally. Prior to amendment, subsecs. (a) to (c) read as follows:

“(a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy, mu-

tiny, or murder, may be tried and punished at any time without limitation.

“(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919–932 of this title (articles 119–132) is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

“(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 815 of this title (article 15).”

Subsec. (g). Pub. L. 99–661, § 805(b), added subsec. (g).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 1081(c)(1)(E) of 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

Pub. L. 114–328, div. E, title LVII, § 5225(f), Dec. 23, 2016, 130 Stat. 2910, as amended by Pub. L. 115–91, div. A, title X, § 1081(d)(17), Dec. 12, 2017, 131 Stat. 1600, provided that: “The amendments made by subsections (a), (b), (c), and (d) [amending this section] shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section [Dec. 23, 2016] if the applicable limitation period has not yet expired.”

[Pub. L. 115–91, div. A, title X, § 1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(17) to section 5225(f) of Pub. L. 114–328, set out above, is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.]

Amendment by section 5225(e) of Pub. L. 114–328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114–328, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title XVII, § 1703(c), Dec. 26, 2013, 127 Stat. 958, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 26, 2013], and shall apply with respect to an offense covered by section 920(b) or 920b(b) of title 10, United States Code (article 120(b) or 120b(b) of the Uniform Code of Military Justice), that is committed on or after that date.”

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title V, § 541(f), Dec. 31, 2011, 125 Stat. 1411, provided that: “The amendments made by this section [enacting sections 920b and 920c of this title and amending this section and sections 918 and 920 of this title] shall take effect 180 days after the date of the enactment of this Act [Dec. 31, 2011] and shall apply with respect to offenses committed on or after such effective date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title V, § 552(f), Jan. 6, 2006, 119 Stat. 3263, provided that: “The amendments made by this section [amending this section and sections 918 and

920 of this title and enacting provisions set out as notes under section 920 of this title] shall take effect on October 1, 2007.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. A, title VIII, § 805(c), Nov. 14, 1986, 100 Stat. 3908, provided that: “The amendments made by this section [amending this section] shall apply to an offense committed on or after the date of the enactment of this Act [Nov. 14, 1986].”

APPLICABILITY OF SUBSECTIONS (b)(2)(B) AND (h)

Pub. L. 115–91, div. A, title V, § 531(n)(2), (3), Dec. 12, 2017, 131 Stat. 1387, provided that:

“(2) CHILD ABUSE OFFENSES.—With respect to offenses committed before the date designated by the President under section 5542(a) of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2967) [10 U.S.C. 801 note], subsection (b)(2)(B) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), shall be applied as in effect on December 22, 2016.

“(3) FRAUDULENT ENLISTMENT OR APPOINTMENT OFFENSES.—With respect to the period beginning on December 23, 2016, and ending on the day before the date designated by the President under section 5542(a) of the Military Justice Act of 2016 (division E of Public Law 114–328; 130 Stat. 2967), in the application of subsection (h) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), as added by section 5225(b) of that Act (130 Stat. 2909), the reference in such subsection (h) to section 904a(1) of title 10, United States Code (article 104a(1) of the Uniform Code of Military Justice), shall be deemed to be a reference to section 883(1) of title 10, United States Code (article 83(1) of the Uniform Code of Military Justice).”

§ 844. Art. 44. Former jeopardy

(a) No person may, without his consent, be tried a second time for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article.

(Aug. 10, 1956, ch. 1041, 70A Stat. 52; Pub. L. 114–328, div. E, title LVII, § 5226, Dec. 23, 2016, 130 Stat. 2910.)

AMENDMENT OF SUBSECTION (c)

Pub. L. 114–328, div. E, title LVII, § 5226, title LXIII, § 5542, Dec. 23, 2016, 130 Stat. 2910, 2967, provided that, effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, subsection (c) is amended to read as follows:

(c)(1) A court-martial with a military judge alone is a trial in the sense of this section (article) if, without fault of the accused—

(A) after introduction of evidence; and

(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.