

cludes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the armed forces or in any penal or correctional institution under the control of the United States, or which the United States may be allowed to use. Persons so confined in a penal or correctional institution not under the control of one of the armed forces are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

(b) The omission of the words “hard labor” from any sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 109-163, div. A, title X, §1057(a)(3), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 858(a) | 50:639(a). | May 5, 1950, ch. 169, §1 |
| 858(b) | 50:639(b). | (Art. 58), 64 Stat. 126. |

In subsection (a), the words “Secretary concerned” are substituted for the words “Department concerned”, since the “Department” as an entity, cannot issue instructions. The word “are” is substituted for the words “shall be”. The words “of Columbia” are inserted after “District” for clarity.

In subsection (b), the word “from” is substituted for the word “in”. The words “does not deprive” are substituted for the words “shall not be construed as depriving”.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 struck out “Territory,” after “State,”.

§ 858a. Art. 58a. Sentences: reduction in enlisted grade

(a) A court-martial sentence of an enlisted member in a pay grade above E-1, as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c), that includes—

- (1) a dishonorable or bad-conduct discharge;
- (2) confinement; or
- (3) hard labor without confinement;

reduces that member to pay grade E-1, if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date on which the judgment is so entered.

(b) If the sentence of a member who is reduced in pay grade under subsection (a) is set aside or reduced, or, as finally affirmed, does not include any punishment named in subsection (a)(1), (2), or (3), the rights and privileges of which he was deprived because of that reduction shall be restored to him and he is entitled to the pay and allowances to which he would have been entitled, for the period the reduction was in effect, had he not been so reduced.

(Added Pub. L. 86-633, §1(1), July 12, 1960, 74 Stat. 468; amended Pub. L. 114-328, div. E, title

LVIII, §5303, Dec. 23, 2016, 130 Stat. 2923; Pub. L. 115-91, div. A, title V, §531(f)(1), (2), Dec. 12, 2017, 131 Stat. 1385.)

AMENDMENTS

2017—Pub. L. 115-91, §531(f)(2), struck out “upon approval” after “reduction in enlisted grade” in section catchline.

Subsec. (a). Pub. L. 115-91, §531(f)(1), substituted “, if such a reduction is authorized by regulation prescribed by the President. The reduction in pay grade shall take effect on the date” for “, effective on the date” in concluding provisions.

2016—Subsec. (a). Pub. L. 114-328, §5303(1), in introductory provisions, substituted “A” for “Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a” and “as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)” for “as approved by the convening authority”, and, in concluding provisions, substituted “on which the judgment is so entered” for “of that approval”.

Subsec. (b). Pub. L. 114-328, §5303(2), substituted “reduced, or, as finally affirmed” for “disapproved, or, as finally approved”.

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.

§ 858b. Art. 58b. Sentences: forfeiture of pay and allowances during confinement

(a)(1) A court-martial sentence described in paragraph (2) shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under section 857 of this title (article 57) and may be deferred as provided in that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds of all pay due that member during such period.

(2) A sentence covered by this section is any sentence that includes—

- (A) confinement for more than six months or death; or
- (B) confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal.

(b) In a case involving an accused who has dependents, the convening authority or other person acting under section 860a or 860b of this title (article 60a or 60b) may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.