

sions generally, prior to the general amendment of this chapter by Pub. L. 111-84.

AMENDMENTS

2013—Subsec. (d)(1)(C). Pub. L. 113-66 substituted “preliminary hearing” for “pretrial investigation”.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 113-66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113-66, set out as a note under section 802 of this title.

EX. ORD. NO. 13425. TRIAL OF ALIEN UNLAWFUL ENEMY COMBATANTS BY MILITARY COMMISSION

Ex. Ord. No. 13425, Feb. 14, 2007, 72 F.R. 7737, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Military Commissions Act of 2006 (Public Law 109-366), the Authorization for Use of Military Force (Public Law 107-40), and section 948b(b) of title 10, United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment of Military Commissions.* There are hereby established military commissions to try alien unlawful enemy combatants for offenses triable by military commission as provided in chapter 47A of title 10.

SEC. 2. *Definitions.* As used in this order:

(a) “unlawful enemy combatant” has the meaning provided for that term in section 948a(1) of title 10; and
(b) “alien” means a person who is not a citizen of the United States.

SEC. 3. *Supersedeure.* This order supersedes any provision of the President’s Military Order of November 13, 2001 (66 *Fed. Reg.* 57,833), that relates to trial by military commission, specifically including:

(a) section 4 of the Military Order; and
(b) any requirement in section 2 of the Military Order, as it relates to trial by military commission, for a determination of:

- (i) reason to believe specified matters; or
- (ii) the interest of the United States.

SEC. 4. *General Provisions.* (a) This order shall be implemented in accordance with applicable law and subject to the availability of appropriations.

(b) The heads of executive departments and agencies shall provide such information and assistance to the Secretary of Defense as may be necessary to implement this order and chapter 47A of title 10.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 948c. Persons subject to military commissions

Any alien unprivileged enemy belligerent is subject to trial by military commission as set forth in this chapter.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2576.)

PRIOR PROVISIONS

A prior section 948c, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2602, related to persons subject to military commissions, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 948d. Jurisdiction of military commissions

A military commission under this chapter shall have jurisdiction to try persons subject to

this chapter for any offense made punishable by this chapter, sections 904 and 906 of this title (articles 104 and 106 of the Uniform Code of Military Justice), or the law of war, whether such offense was committed before, on, or after September 11, 2001, and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when specifically authorized under this chapter. A military commission is a competent tribunal to make a finding sufficient for jurisdiction.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2576.)

PRIOR PROVISIONS

A prior section 948d, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2603, related to jurisdiction of military commissions, prior to the general amendment of this chapter by Pub. L. 111-84.

A prior section 948e, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2603, which required the Secretary of Defense to submit an annual report to congressional committees, was omitted in the general amendment of this chapter by Pub. L. 111-84. See section 1806 of Pub. L. 111-84, set out as a note under section 948a of this title.

SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

Sec.	
948h.	Who may convene military commissions.
948i.	Who may serve on military commissions.
948j.	Military judge of a military commission.
948k.	Detail of trial counsel and defense counsel.
948l.	Detail or employment of reporters and interpreters.
948m.	Number of members; excuse of members; absent and additional members.

§ 948h. Who may convene military commissions

Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2576.)

PRIOR PROVISIONS

A prior section 948h, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2603, related to who may convene military commissions, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 948i. Who may serve on military commissions

(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter, including commissioned officers of the reserve components of the armed forces on active duty, commissioned officers of the National Guard on active duty in Federal service, or retired commissioned officers recalled to active duty.

(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members thereof such members of the armed forces eligible under subsection (a) who, in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial tem-