

(8) any other commanding officer designated by the Secretary concerned; or

(9) any other commanding officer in any of the armed forces when empowered by the President.

(b) If any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 99-433, title II, §211(b), Oct. 1, 1986, 100 Stat. 1017; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 114-328, div. E, title LV, §5181, Dec. 23, 2016, 130 Stat. 2899; Pub. L. 116-283, div. A, title IX, §924(b)(21)(A), Jan. 1, 2021, 134 Stat. 3824; Pub. L. 117-81, div. A, title V, §534(a), Dec. 27, 2021, 135 Stat. 1696.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 117-81, div. A, title V, §§ 534(a), 539C, Dec. 27, 2021, 135 Stat. 1696, 1699, provided that, effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability, subsection (b) of this section is amended:

(1) by striking “If any” and inserting “(1) If any”; and

(2) by adding at the end the following new paragraph:

(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a general court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.

See 2021 Amendment note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
822(a)	50:586(a).	May 5, 1950, ch. 169, §1
822(b)	50:586(b).	(Art. 22), 64 Stat. 115.

Subsection (a)(2) is substituted for the words “the Secretary of a Department”.

In subsection (a)(4), the words “continental limits of the” are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsection (a)(6), the words “any other commanding officer” are substituted for the words “such other commanding officers as may be”.

In subsection (b), the word “If” is substituted for the word “When”. The words “if considered” are substituted for the words “when deemed”.

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(7). Pub. L. 116-283 substituted “Marine Corps, or the commanding officer of a corresponding unit of the Space Force” for “Marine Corps”.

Subsec. (b). Pub. L. 117-81 designated existing provisions as par. (1) and added par. (2).

2016—Subsec. (a)(6). Pub. L. 114-328 struck out “in chief” after “the commander”.

2006—Subsec. (a)(5). Pub. L. 109-163 struck out “a Territorial Department,” before “an Army Group”.

1986—Subsec. (a)(2) to (9). Pub. L. 99-433 added pars. (2) and (3) and redesignated existing pars. (2) to (7) as (4) to (9), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117-81, 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.

TRAINING FOR SEXUAL ASSAULT INITIAL DISPOSITION AUTHORITIES ON EXERCISE OF DISPOSITION AUTHORITY FOR SEXUAL ASSAULT AND COLLATERAL OFFENSES

Pub. L. 116-92, div. A, title V, §540A, Dec. 20, 2019, 133 Stat. 1365, provided that:

“(a) IN GENERAL.—The training for sexual assault initial disposition authorities on the exercise of disposition authority under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), shall include comprehensive training on the exercise of disposition authority with respect to cases for which disposition authority is withheld to such authorities pursuant to the memorandum described in subsection (b) for the purpose of promoting confidence and trust in the military justice process with respect to such cases.

“(b) MEMORANDUM DESCRIBED.—The memorandum described in this subsection is the memorandum of the Secretary of Defense titled ‘Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases’ and dated April 20, 2012, or any successor memorandum.”

§ 823. Art. 23. Who may convene special courts-martial

(a) Special courts-martial may be convened by—

(1) any person who may convene a general court-martial;

(2) the commanding officer of a district, garrison, fort, camp, station, Air Force or Space Force military installation, auxiliary air field, or other place where members of the Army, the Air Force, or the Space Force are on duty;

(3) the commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the Army;

(4) the commanding officer of a wing, group, or separate squadron of the Air Force or a corresponding unit of the Space Force;

(5) the commanding officer of any naval or Coast Guard vessel, shipyard, base, or station; the commanding officer of any Marine brigade, regiment, detached battalion, or corresponding unit; the commanding officer of any Marine barracks, wing, group, separate squadron, station, base, auxiliary air field, or other place where members of the Marine Corps are on duty;

(6) the commanding officer of any separate or detached command or group of detached units of any of the armed forces placed under a single commander for this purpose; or

(7) the commanding officer or officer in charge of any other command when empowered by the Secretary concerned.

(b) If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered advisable by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 116-283, div. A, title IX, §924(b)(21)(B), Jan. 1, 2021, 134 Stat. 3824; Pub. L. 117-81, div. A, title V, §534(b), title X, §1081(a)(13), Dec. 27, 2021, 135 Stat. 1696, 1920.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 117-81, div. A, title V, §§ 534(b), 539C, Dec. 27, 2021, 135 Stat. 1696, 1699, provided that, effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability, subsection (b) of this section is amended:

(1) *by striking “If any” and inserting “(1) If any”;* and

(2) *by adding at the end the following new paragraph:*

(2) A commanding officer shall not be considered an accuser solely due to the role of the commanding officer in convening a special court-martial to which charges and specifications were referred by a special trial counsel in accordance with this chapter.

See 2021 Amendment notes below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
823(a)	50:587(a).	May 5, 1950, ch. 169, §1
823(b)	50:587(b).	(Art. 23), 64 Stat. 115.

In subsection (a)(7), the words “Secretary concerned” are substituted for the words “Secretary of a Department”.

In subsection (b), the word “If” is substituted for the word “When”. The words “if considered” are substituted for the words “when deemed”.

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 117-81, §1081(a)(13), inserted comma after “Army”.

Pub. L. 116-283, §924(b)(21)(B)(i), substituted “Air Force or Space Force military installation” for “Air Force base” and “the Air Force, or the Space Force” for “or the Air Force”.

Subsec. (a)(4). Pub. L. 116-283, §924(b)(21)(B)(ii), inserted “or a corresponding unit of the Space Force” after “Air Force”.

Subsec. (b). Pub. L. 117-81, §534(b), designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 534(b) of Pub. L. 117-81 effective on the date that is two years after Dec. 27, 2021, and applicable with respect to offenses that occur after that date, with provisions for delayed effect and applicability if regulations are not prescribed by the President before the date that is two years after Dec. 27, 2021, see section 539C of Pub. L. 117-81, set out as a note under section 801 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relat-

ing thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 824. Art. 24. Who may convene summary courts-martial

(a) Summary courts-martial may be convened by—

(1) any person who may convene a general or special court-martial;

(2) the commanding officer of a detached company, or other detachment of the Army;

(3) the commanding officer of a detached squadron or other detachment of the Air Force or a corresponding unit of the Space Force; or

(4) the commanding officer or officer in charge of any other command when empowered by the Secretary concerned.

(b) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 45; Pub. L. 116-283, div. A, title IX, §924(b)(21)(C), Jan. 1, 2021, 134 Stat. 3824.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
824(a)	50:588(a).	May 5, 1950, ch. 169, §1
824(b)	50:588(b).	(Art. 24), 64 Stat. 116.

In subsection (a)(4), the words “Secretary concerned” are substituted for the words “Secretary of a Department”.

In subsection (b), the words “only one commissioned” are substituted for the words “but one” for clarity. The word “considered” is substituted for the word “deemed”.

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(3). Pub. L. 116-283 inserted “or a corresponding unit of the Space Force” after “Air Force”.

§ 824a. Art 24a. Special trial counsel

(a) DETAIL OF SPECIAL TRIAL COUNSEL.—Each Secretary concerned shall promulgate regulations for the detail of commissioned officers to serve as special trial counsel.

(b) QUALIFICATIONS.—A special trial counsel shall be a commissioned officer who—

(1)(A) is a member of the bar of a Federal court or a member of the bar of the highest court of a State; and

(B) is certified to be qualified, by reason of education, training, experience, and temperament, for duty as a special trial counsel by—

(i) the Judge Advocate General of the armed force of which the officer is a member; or

(ii) in the case of the Marine Corps, the Staff Judge Advocate to the Commandant of the Marine Corps; and