

ducted 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 “appoint”, since the filling of the position involved is not appointment to an office in the constitutional sense.

Editorial Notes

AMENDMENTS

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

§ 829. Art 29. Assembly and impaneling of members; detail of new members and military judges

(a) ASSEMBLY.—The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused—

- (1) as a result of a challenge;
- (2) under subsection (b)(1)(B); or
- (3) by order of the military judge or the convening authority for disability or other good cause.

(b) IMPANELING.—(1) Under rules prescribed by the President, the military judge of a general or special court-martial with members shall—

- (A) after determination of challenges, impanel the court-martial; and
- (B) excuse the members who, having been assembled, are not impaneled.

(2) In a general court-martial, the military judge shall impanel—

- (A) 12 members in a capital case; and

- (B) eight members in a noncapital case.

(3) In a special court-martial, the military judge shall impanel four members.

(c) ALTERNATE MEMBERS.—In addition to members under subsection (b), the military judge shall impanel alternate members, if the convening authority authorizes alternate members.

(d) DETAIL OF NEW MEMBERS.—(1) If, after members are impaneled, the membership of the court-martial is reduced to—

- (A) fewer than 12 members with respect to a general court-martial in a capital case;
- (B) fewer than six members with respect to a general court-martial in a noncapital case; or
- (C) fewer than four members with respect to a special court-martial;

the trial may not proceed unless the convening authority details new members and, from among the members so detailed, the military judge impanels new members sufficient in number to provide the membership specified in paragraph (2).

(2) The membership referred to in paragraph (1) is as follows:

- (A) 12 members with respect to a general court-martial in a capital case.
- (B) At least six but not more than eight members with respect to a general court-martial in a noncapital case.
- (C) Four members with respect to a special court-martial.

(e) DETAIL OF NEW MILITARY JUDGE.—If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

(f) EVIDENCE.—(1) In the case of new members under subsection (d), the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

(2) In the case of a new military judge under subsection (e), the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, 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. 107-107, div. A, title V, §582(c), Dec. 28, 2001, 115 Stat. 1124; Pub. L. 114-328, div. E, title LV, §5187, Dec. 23, 2016, 130 Stat. 2902.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
829(a)	50:593(a).	May 5, 1950, ch. 169, §1 (Art. 29), 64 Stat. 117.
829(b)	50:593(b).	
829(c)	50:593(c).	

In subsections (a), (b), and (c), the word “may” is substituted for the word “shall”.

In subsections (b) and (c), the word “details” is substituted for the word “appoints”, since the filling of

the position involved is not appointment to an office in the constitutional sense.

Sec.	Art.	
835.	35.	Service of charges; commencement of trial.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to absent and additional members of a general or special court-martial.

2001—Subsec. (b). Pub. L. 107-107 designated existing provisions as par. (1), substituted “the applicable minimum number of members” for “five members” in two places, and added par. (2).

1983—Subsec. (a). Pub. L. 98-209 substituted “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” for “except for physical disability or as a result of a challenge or by order of the convening authority for good cause”.

1968—Subsec. (a). Pub. L. 90-632, §2(11)(A), substituted “court has been assembled for the trial of the accused” for “accused has been arraigned”.

Subsec. (b). Pub. L. 90-632, §2(11)(B), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and inserted provisions requiring that only the evidence which has been introduced before members of the court be read to the court and that all evidence, not merely testimony, be included.

Subsec. (c). Pub. L. 90-632, §2(11)(C), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and substituted evidence previously introduced for testimony of previously examined witnesses as the body of evidence which the verbatim record must cover.

Subsec. (d) Pub. L. 90-632, §2(11)(D), added subsec. (d).

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable with respect to offenses committed after Dec. 31, 2002, see section 582(d) of Pub. L. 107-107, set out as a note under section 816 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98-209, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

SUBCHAPTER VI—PRE-TRIAL PROCEDURE

Sec.	Art.	
830.	30.	Charges and specifications.
830a.	30a.	Proceedings conducted before referral.
831.	31.	Compulsory self-incrimination prohibited.
832.	32.	Preliminary hearing required before referral to general court-martial.
833.	33.	Disposition guidance.
834.	34.	Advice to convening authority before referral for trial.

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92, div. A, title V, §531(b)(2), Dec. 20, 2019, 133 Stat. 1359, substituted “Proceedings conducted before referral” for “Certain proceedings conducted before referral” in item 830a.

2017—Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), (C), Dec. 12, 2017, 131 Stat. 1601, amended Pub. L. 114-328, §5541(3). See 2016 Amendment note below.

2016—Pub. L. 114-328, div. E, title LXIII, §5541(3), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), (C), Dec. 12, 2017, 131 Stat. 1601, added item 830a and substituted “Preliminary hearing required before referral to general court-martial” for “Preliminary hearing” in item 832, “Disposition guidance” for “Forwarding of charges” in item 833, “Advice to convening authority before referral for trial” for “Advice of staff judge advocate and reference for trial” in item 834, and “Service of charges; commencement of trial” for “Service of charges” in item 835.

2013—Pub. L. 113-66, div. A, title XVII, §1702(a)(2), Dec. 26, 2013, 127 Stat. 955, substituted “Preliminary hearing” for “Investigation” in item 832.

§ 830. Art 30. Charges and specifications

(a) IN GENERAL.—Charges and specifications—

(1) may be preferred only by a person subject to this chapter; and

(2) shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

(b) REQUIRED CONTENT.—The writing under subsection (a) shall state that—

(1) the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

(2) the matters set forth in the charges and specifications are true, to the best of the knowledge and belief of the signer.

(c) DUTY OF PROPER AUTHORITY.—When charges and specifications are preferred under subsection (a), the proper authority shall, as soon as practicable—

(1) inform the person accused of the charges and specifications; and

(2) determine what disposition should be made of the charges and specifications in the interest of justice and discipline.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 114-328, div. E, title LVI, §5201, Dec. 23, 2016, 130 Stat. 2904.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
830(a)	50:601(a).	May 5, 1950, ch. 169, §1
830(b)	50:601(b).	(Art. 30), 64 Stat. 118.

In subsection (a), the word “they” is substituted for the words “the same”. The word “commissioned” is inserted for clarity.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, text read as follows: