

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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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.

(c) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a)(2), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.

(Added Pub. L. 104-106, div. A, title XI, §1122(a)(1), Feb. 10, 1996, 110 Stat. 463; amended Pub. L. 104-201, div. A, title X, §1068(a)(1), Sept. 23, 1996, 110 Stat. 2655; Pub. L. 105-85, div. A, title X, §1073(a)(9), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 114-328, div. E, title LVIII, §5302(b)(3), Dec. 23, 2016, 130 Stat. 2923; Pub. L. 115-91, div. A, title V, §531(g), Dec. 12, 2017, 131 Stat. 1385.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91 substituted “section 860a or 860b of this title (article 60a or 60b)” for “section 860 of this title (article 60)”.

2016—Subsec. (a)(1). Pub. L. 114-328 substituted “section 857 of this title (article 57)” for “section 857(a) of this title (article 57(a))”.

1997—Subsec. (a)(1). Pub. L. 105-85 substituted “forfeiture of pay, or of pay and allowances, due that member” for “forfeiture of pay and (if adjudged by a general court-martial) allowances due that member” in first sentence.

1996—Subsec. (a)(1). Pub. L. 104-201, §1068(a)(1)(B), substituted “two-thirds of all pay” for “two-thirds of all pay and allowances” in third sentence.

Pub. L. 104-201, §1068(a)(1)(A), which directed amendment of first sentence by inserting “(if adjudged by a general court-martial)” after “all pay and”, was executed by making the insertion after “of pay and” in first sentence to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title X, §1068(a)(2), Sept. 23, 1996, 110 Stat. 2655, provided that: “The amendments

made by paragraph (1) [amending this section] shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date.”

EFFECTIVE DATE

Pub. L. 104-106, div. A, title XI, §1122(b), Feb. 10, 1996, 110 Stat. 463, provided that: “The section (article) added by the amendment made by subsection (a)(1) [this section] shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act [Feb. 10, 1996].”

SUBCHAPTER IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

Sec.	Art.
859.	59. Error of law; lesser included offense.
860.	60. Post-trial processing in general and special courts-martial.
860a.	60a. Limited authority to act on sentence in specified post-trial circumstances.
860b.	60b. Post-trial actions in summary courts-martial and certain general and special courts-martial.
860c.	60c. Entry of judgment.
861.	61. Waiver of right to appeal; withdrawal of appeal.
862.	62. Appeal by the United States.
863.	63. Rehearings.
864.	64. Judge advocate review of finding of guilty in summary court-martial.
865.	65. Transmittal and review of records.
866.	66. Courts of Criminal Appeals.
867.	67. Review by the Court of Appeals for the Armed Forces.
867a.	67a. Review by the Supreme Court.
868.	68. Branch offices.
869.	69. Review by Judge Advocate General.
870.	70. Appellate counsel.
[871.	71. Repealed.]
872.	72. Vacation of suspension.
873.	73. Petition for a new trial.
874.	74. Remission and suspension.
875.	75. Restoration.
876.	76. Finality of proceedings, findings, and sentences.
876a.	76a. Leave required to be taken pending review of certain court-martial convictions.
876b.	76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment.

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114-328, §5541(6)(A) to (C). See 2016 Amendment notes below.

2016—Pub. L. 114-328, div. E, title LXIII, §5541(6)(D), Dec. 23, 2016, 130 Stat. 2967, struck out item 871 “Art. 71. Execution of sentence; suspension of sentence”.

Pub. L. 114-328, div. E, title LXIII, §5541(6)(B), (C), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted “Judge advocate review of finding of guilty in summary court-martial” for “Review by a judge advocate” in item 864, “Transmittal and review of records” for “Disposition of records” in item 865, “Courts of Criminal Appeals” for “Review by Court of Criminal Appeals” in item 866, and “Review by Judge Advocate General” for “Review in the office of the Judge Advocate General” in item 869.

Pub. L. 114-328, div. E, title LXIII, §5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601,

added items 860a to 860c and substituted “Post-trial processing in general and special courts-martial” for “Action by the convening authority” in item 860.

Pub. L. 114-328, div. E, title LXIII, §5541(6)(A), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, which directed amendment of analysis by striking out item “61” and inserting item 861, was amended by striking out item 861 “Waiver or withdrawal of appeal” and adding new item 861 to reflect the probable intent of Congress.

1996—Pub. L. 104-106, div. A, title XI, §1133(a)(2), Feb. 10, 1996, 110 Stat. 466, added item 876b.

1994—Pub. L. 103-337, div. A, title IX, §924(c)(4)(C), Oct. 5, 1994, 108 Stat. 2832, substituted “Court of Criminal Appeals” for “Court of Military Review” in item 866 and “Court of Appeals for the Armed Forces” for “Court of Military Appeals” in item 867.

1990—Pub. L. 101-510, div. A, title XIV, §1484(i)(1), Nov. 5, 1990, 104 Stat. 1718, added item 867a.

1983—Pub. L. 98-209, §§5(a)(2), (b)(2), (c)(2), (h)(2), 6(d)(2), 7(a)(2), Dec. 6, 1983, 97 Stat. 1397, 1398, 1400-1402, substituted “Post-trial Procedure and Review of Courts-Martial” for “Review of Courts-Martial” as subchapter heading, “Action by the convening authority” for “Initial action on the record” in item 860, “Waiver or withdrawal of appeal” for “Same—General court-martial records” in item 861, “Appeal by the United States” for “Reconsideration and revision” in item 862, “Review by a judge advocate” for “Approval by the convening authority” in item 864, and “Disposition of records” for “Disposition of records after review by the convening authority” in item 865.

1981—Pub. L. 97-81, §2(c)(2), Nov. 20, 1981, 95 Stat. 1087, added item 876a.

1968—Pub. L. 90-632, §2(25), Oct. 24, 1968, 82 Stat. 1341, substituted “Court of Military Review” for “board of review” in item 866 (article 66).

§ 859. Art. 59. Error of law; lesser included offense

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
859(a)	50:646(a).	May 5, 1950, ch. 169, §1 (Art. 59), 64 Stat. 127.
859(b)	50:646(b).	

The word “may” is substituted for the word “shall”.

§ 860. Art 60. Post-trial processing in general and special courts-martial

(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled “Statement of Trial Results”, which shall set forth—

(A) each plea and finding;

(B) the sentence, if any; and

(C) such other information as the President may prescribe by regulation.

(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.