

Editorial Notes

PRIOR PROVISIONS

A prior section 884 was renumbered section 904b of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 885. Art. 85. Desertion

- (a) Any member of the armed forces who—
(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;
(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or
(3) without being regularly separated from one of the armed forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States;

is guilty of desertion.

(b) Any commissioned officer of the armed forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows for 885(a), 885(b), and 885(c).

In subsection (a), the word "unit" is substituted for the words "place of service" to conform to clause (2) of this section and section 886(3) of this title. The word "proper" is omitted as surplusage.

In subsection (b), the word "commissioned" is inserted for clarity. The word "before" is substituted for the words "prior to". The words "its acceptance" are substituted for the words "the acceptance of the same". The words "after tender of" are substituted for the words "having tendered" for clarity. The word "due" is omitted as surplusage.

In subsection (c), the words "attempt to desert" are substituted for the words "attempted desertion".

§ 886. Art. 86. Absence without leave

Any member of the armed forces who, without authority—

- (1) fails to go to his appointed place of duty at the time prescribed;

- (2) goes from that place; or
(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 67.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row for 886.

The words "proper" and "other" are omitted as surplusage.

§ 887. Art. 87. Missing movement; jumping from vessel

(a) MISSING MOVEMENT.—Any person subject to this chapter who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

(b) JUMPING FROM VESSEL INTO THE WATER.—Any person subject to this chapter who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 114-328, div. E, title LX, § 5406, Dec. 23, 2016, 130 Stat. 2940.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row for 887.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, text read as follows: "Any person subject to this chapter who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct."

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.

§ 887a. Art. 87a. Resistance, flight, breach of arrest, and escape

- Any person subject to this chapter who—
(1) resists apprehension;
(2) flees from apprehension;
(3) breaks arrest; or
(4) escapes from custody or confinement;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 69, § 895; Pub. L. 104-106, div. A, title XI, § 1112(a), Feb. 10, 1996, 110

Stat. 461; renumbered § 887a, Pub. L. 114-328, div. E, title LX, § 5401(2), Dec. 23, 2016, 130 Stat. 2938.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
895	50:689.	May 5, 1950, ch. 169, § 1 (Art. 95), 64 Stat. 136.

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AMENDMENTS

2016—Pub. L. 114-328 renumbered section 895 of this title as this section.

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.

§ 887b. Art. 87b. Offenses against correctional custody and restriction

(a) ESCAPE FROM CORRECTIONAL CUSTODY.—Any person subject to this chapter—

- (1) who is placed in correctional custody by a person authorized to do so;
- (2) who, while in correctional custody, is under physical restraint; and
- (3) who escapes from the physical restraint before being released from the physical restraint by proper authority;

shall be punished as a court-martial may direct.

(b) BREACH OF CORRECTIONAL CUSTODY.—Any person subject to this chapter—

- (1) who is placed in correctional custody by a person authorized to do so;
- (2) who, while in correctional custody, is under restraint other than physical restraint; and
- (3) who goes beyond the limits of the restraint before being released from the correctional custody or relieved of the restraint by proper authority;

shall be punished as a court-martial may direct.

(c) BREACH OF RESTRICTION.—Any person subject to this chapter—

- (1) who is ordered to be restricted to certain limits by a person authorized to do so; and
- (2) who, with knowledge of the limits of the restriction, goes beyond those limits before being released by proper authority;

shall be punished as a court-martial may direct.

(Added Pub. L. 114-328, div. E, title LX, § 5407, Dec. 23, 2016, 130 Stat. 2941.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 888. Art. 88. Contempt toward officials

Any commissioned officer who uses contemptuous words against the President, the Vice

President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Homeland Security, or the Governor or legislature of any State, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 96-513, title V, § 511(25), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; 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)
888	50:682.	May 5, 1950, ch. 169, § 1 (Art. 88), 64 Stat. 135.

The word “commissioned” is inserted for clarity. The words “the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession” are substituted for the words “Vice President, Congress, Secretary of Defense, or a Secretary of a Department, a Governor or a legislature of any State, Territory, or other possession of the United States”.

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AMENDMENTS

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

2002—Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1980—Pub. L. 96-513 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer

(a) DISRESPECT.—Any person subject to this chapter who behaves with disrespect toward that person’s superior commissioned officer shall be punished as a court-martial may direct.

(b) ASSAULT.—Any person subject to this chapter who strikes that person’s superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer’s office shall be punished—

- (1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and
- (2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 67; Pub. L. 114-328, div. E, title LX, § 5408, Dec. 23, 2016, 130 Stat. 2941.)