

“(B) The use of skill identifiers to identify judge advocates for participation in the pilot program from among judge advocates having appropriate skill and experience in military justice matters.

“(C) Guidance for promotion boards considering the selection for promotion of officers participating in the pilot program in order to ensure that judge advocates who are participating in the pilot program have the same opportunity for promotion as all other judge advocate officers being considered for promotion by such boards.

“(D) Such other matters as the Secretary concerned considers appropriate.

“(5) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 23, 2016], the Secretary concerned shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot programs conducted 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.