§ 802. Art. 2. Persons subject to this chapter

(a) The following persons are subject to this chapter:

(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in, or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey.

(2) Cadets, aviation cadets, and midshipmen.

(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

(B) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

(8) Members of the National Oceanic and Atmospheric Administration, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) In time of declared war or a contingency operation, persons serving with or accompanying an armed force in the field.

(11) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(13) Individuals belonging to one of the eight categories enumerated in Article 4 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3318), which violate the law of war.

(b) The voluntary enlistment of any person who has the capacity to understand the significance of enlisting in the armed forces shall be valid for purposes of jurisdiction under subsection (a) and a change of status from civilian to member of the armed forces shall be effective upon the taking of the oath of enlistment.

(c) Notwithstanding any other provision of law, a person serving with an armed force who—

(1) submitted voluntarily to military authority;

(2) met the mental competency and minimum age qualifications of sections 564 and 556 of this title at the time of voluntary submission to military authority;

(3) received military pay or allowances; and

(4) performed military duties;

is subject to this chapter until such person's active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.

(d)(I) A member of a reserve component who is not on active duty and who is made the subject of proceedings under section 806 (article 15) or section 808 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

(A) investigation under section 826 of this title (article 33);

(B) trial by court-martial; or

(C) nonjudicial punishment under section 915 of this title (article 15).

(2) A member of a reserve component may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

(A) on active duty; or

(B) on inactive-duty training, but in the case of members of the Army National Guard of the
United States or the Air National Guard of the United States only when in Federal service.

(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces.

(5) A member ordered to active duty under paragraph (1), unless the order to active duty was approved by the Secretary concerned, may not:

(A) be sentenced to confinement; or

(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).

(6) The provisions of this section are subject to section 876b(d)(2) of this title (article 76b(d)(2)).


HISTORICAL AND REVISION NOTES

1966 ACT

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<th>Revised section</th>
<th>Source (U.S. Code)</th>
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<tr>
<td>802</td>
<td>50:262.</td>
<td>May 5, 1936, ch. 169, §1</td>
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In clause (1), the words “Members of” are substituted for the words “all persons belonging to”. The words “all” and “the same” are omitted as surplusage. The word “whom” is inserted after the word “duty”.

In clauses (1) and (6), the words “of the United States” are omitted as surplusage.

In clause (2), the words “Members of a reserve component” are substituted for the words “Reserve personnel”. The word “orders” in the last clause is omitted as surplusage.

In clause (4), the word “receive” is omitted as surplusage.

In clauses (4) and (5), the word “members” is substituted for the word “personnel”.

In clause (5), the word “members” is substituted for the word “personnel”.

In clauses (1) and (12), the word “outside” is substituted for the word “without” wherever it occurs. The words “the contiguous limits of” are omitted, since section 101(b) of this title defines the United States to include the States and the District of Columbia. The words “the provision of”, “all”, and “territories” are omitted as surplusage.

In clause (12), the words “Secretary concerned” are substituted for the words “Secretary of a Department”.

THE ACT OF AUGUST 1, 1956, WAS ENACTED DURING THE PENNDOM IN THE CODIFICATION BILL.

AMENDMENTS

1969—Subsec. (a)(13). Pub. L. 91-164 amended par. (13) generally. Prior to amendment, par. (13) read as follows: “Lawful enemy combatants (as that term is defined in section 348a(3) of this title) who violate the law of war”.

1968—Subsec. (a)(13). Pub. L. 90-204 substituted “declared war or a contingency operation” for “war”.


1966—Subsec. (a)(3). Pub. L. 89-601, §104(a)(1), substituted “on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service” for “they are on inactive-duty training or are subject to any rule or order issued with respect to them or their training”.


1963—Subsec. (a)(11), (12). Pub. L. 88-229, §12(a)(1), substituted “outside the Canal Zone” for “outside the Commonwealth”.

1962—Subsec. (a)(3). Pub. L. 86-252, §8(a)(1), substituted “on inactive-duty training” for “subject to any rule or order issued with respect to them or their training”.

Subsec. (d). Pub. L. 86-411, §12(a)(2), struck out “the Canal Zone,” after “the Commonwealth,”.

1961—Subsec. (a)(11), (12). Pub. L. 86-330, §12(a)(1), substituted “outside the Canal Zone” for “outside the following: the Canal Zone and the Commonwealth”.


1958—Subsec. (a)(13). Pub. L. 85-407 designated existing provisions as subsec. (a) and added subsec. (b) and (c).


1955—Pub. L. 84-324 struck out “the main group of the Hawaiian Islands” after “Puerto Rico” in cls. (11) and (12).

1953—Pub. L. 82-542 struck out “that part of Alaska east of longitude 170 degrees west” after “the Canal Zone” in cls. (11) and (12).

EFFECTIVE DATE OF 1966 AMENDMENT

Section 804(e) of Pub. L. 89-661 provided that: “The amendments made by subsections (a) and (b) [amending this section and sections 806, 843, and 900 of this title] shall apply only to offenses committed on or after the effective date of this title [see section 808 of Pub. L. 89-661, set out above].”

Section 368 of Pub. L. 90-631 provided that: “Except as provided in sections 805(b), 806(c), and 807(b) [set out as notes under sections 804a, 843, and 900 of this title], this title and the amendments made by this title (including section 806 of this title, amending this section and sections 800, 802, 803, 804, 805, 806, 807, and 809 of this title, and making provisions set out as notes under sections 901, 902, 903, 904, and 905 of this title) shall take effect on the earlier of—

(1) the last day of the 180-day period beginning on the date of the enactment of this Act [Nov. 14, 1965]; or

(2) the date specified in an Executive order for such amendments to take effect.”

EFFECTIVE DATE OF 1993 AMENDMENT

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-453 effective Dec. 12, 1980, see section 711(b)(3) of Pub. L. 96-635, set out as a note under section 201 of this title.

REPEALS


TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1956 Recod. Plan No. 5, 84 F.R. 6505, 65 Stat. 1630, effective June 26, 1956, set out in the Appendix to Title 5, Government Organization and Employees.

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 509(a)(3) of Title 5, Education.

APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO MEMBERS OF THE ARMED FORCES ORTHNEED TO DUTY OVERSEAS IN INACTIVE DUTY FOR TRAINING STATUS

Pub. L. 99-578, div. A, title V, §501, Oct. 27, 1986, 102 Stat. 2517, provided that: “Not later than March 1, 1990, the Secretaries of the military departments shall prescribe regulations, or amend current regulations, in order to provide that members of the Armed Forces who are ordered to duty at locations overseas in an inactive duty for training status are subject to the jurisdiction of the Uniform Code of Military Justice, pursuant to the provisions of section 62a(a)(3) of title 10, United States Code (article 2(a)(3) of the Uniform Code of Military Justice), continuously from the commencement of execution of such orders to the conclusion of such orders.”

ADVISORY COMMITTEE ON CRIMINAL LAW JURISDICTION OVER CIVILIANS ACCOMPANYING ARMED FORCES IN TIMES OF ARMED CONFLICT

Pub. L. 104-109, div. A, title XI, §1151, Feb. 10, 1996, 110 Stat. 497, directed the Secretary of Defense and the Attorney General, not later than 45 days after Feb. 10, 1996, to jointly appoint an advisory committee to review and make recommendations concerning the appropriate forum for criminal jurisdiction over civilians accompanying the Armed Forces outside the United States in times of armed conflict, directed the committee to transmit to the Secretary of Defense and the Attorney General a report setting forth its findings and recommendations not later than Dec. 15, 1996, to the Secretary of Defense and the Attorney General to jointly transmit the report of the committee to Congress not later than Jan. 15, 1997, and provided that the committee would terminate 90 days after the date on which the report had been submitted to Congress.

EX. ORD. NO. 10631, CODE OF CONDUCT FOR MEMBERS OF THE ARMED FORCES


By virtue of the authority vested in me as President of the United States, and as Commander in Chief of the armed forces of the United States, I hereby prescribe the Code of Conduct for Members of the Armed Forces of the United States which, as attached to this order and hereby made a part thereof, is made a part thereof.

All members of the Armed Forces of the United States are expected to measure up to the standards embodied in this Code of Conduct while in combat or in captivity. To ensure a demonstration of these standards, members of the armed forces liable to capture shall be provided with specific training and instruction designed to better equip them to counter and withstand all enemy efforts against them, and shall be fully instructed as to the behavior and obligations expected of them during combat or captivity.

The Secretary of Defense (and the Secretary of Homeland Security with respect to the Coast Guard except when it is serving as part of the Navy) shall take such action as he deems necessary to implement this order and to disseminate and make the said Code known to all members of the armed forces of the United States.

CODE OF CONDUCT FOR MEMBERS OF THE UNITED STATES ARMED FORCES

I am an American, fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. I will never sanction or take part in any act of violence against civilians.

When questioned, should I become a prisoner of war, I am required to give names, rank, service number and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles which made our country free. I will trust in my God and in the United States of America.

§803. Art. 3. Jurisdiction to try certain personnel

(a) Subject to section 803 of this title (article 3), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from accountability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.

(b) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to section 803 of this title (article 3), subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.