

- “**(C)** any information required by rule or order of the Court of Criminal Appeals.”.
- 10 USC 856 note. (e) **ESTABLISHMENT OF SENTENCING PARAMETERS AND SENTENCING CRITERIA.**—
- Deadline. President. Regulations. (1) **IN GENERAL.**—Not later than two years after the date of the enactment of this Act, the President shall prescribe regulations establishing sentencing parameters and sentencing criteria related to offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), in accordance with this subsection. Such parameters and criteria—
- Determination. (A) shall cover sentences of confinement; and
(B) may cover lesser punishments, as the President determines appropriate.
- (2) **SENTENCING PARAMETERS.**—Sentencing parameters established under paragraph (1) shall—
- (A) identify a delineated sentencing range for an offense that is appropriate for a typical violation of the offense, taking into consideration—
- (i) the severity of the offense;
 - (ii) the guideline or offense category that would apply to the offense if the offense were tried in a United States district court;
 - (iii) any military-specific sentencing factors;
 - (iv) the need for the sentencing parameter to be sufficiently broad to allow for individualized consideration of the offense and the accused; and
 - (v) any other relevant sentencing guideline.
- (B) include no fewer than 5 and no more than 12 offense categories;
- (C) assign such offense under this chapter to an offense category unless the offense is identified as unsuitable for sentencing parameters under paragraph (4)(F)(ii); and
- (D) delineate the confinement range for each offense category by setting an upper confinement limit and a lower confinement limit.
- (3) **SENTENCING CRITERIA.**—Sentencing criteria established under paragraph (1) shall identify offense-specific factors the military judge should consider and any collateral effects of available punishments that may aid the military judge in determining an appropriate sentence when there is no applicable sentencing parameter for a specific offense.
- Designations. (4) **MILITARY SENTENCING PARAMETERS AND CRITERIA BOARD.**—
- Establishment. (A) **IN GENERAL.**—There is established within the Department of Defense a board, to be known as the “Military Sentencing Parameters and Criteria Board” (referred to in this subsection as the “Board”).
- (B) **VOTING MEMBERS.**—The Board shall have 5 voting members, as follows:
- (i) The 4 chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), except that, if the chief trial judge of the Coast Guard is not available, the Judge Advocate General of the Coast Guard may designate as a voting member a judge advocate of the Coast Guard with substantial military justice experience.

(ii) A trial judge of the Navy, designated under regulations prescribed by the President, if the chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), do not include a trial judge of the Navy.

(iii) A trial judge of the Marine Corps, designated under regulations prescribed by the President, if the chief trial judges designated under section 826(g) of title 10, United States Code (article 26(g) of the Uniform Code of Military Justice), do not include a trial judge of the Marine Corps.

(C) NONVOTING MEMBERS.—The Chief Judge of the Court of Appeals for the Armed Forces, the Chairman of the Joint Chiefs of Staff, and the General Counsel of the Department of Defense shall each designate one nonvoting member of the Board. The Secretary of Defense may appoint one additional nonvoting member of the Board at the Secretary's discretion.

Appointment.

(D) CHAIR AND VICE-CHAIR.—The Secretary of Defense shall designate one voting member as chair of the Board and one voting member as vice-chair.

(E) VOTING REQUIREMENT.—An affirmative vote of at least three members is required for any action of the Board under this subsection.

(F) DUTIES OF BOARD.—The Board shall have the following duties:

(i) As directed by the Secretary of Defense, the Board shall submit to the President for approval—

(I) sentencing parameters for all offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) (other than offenses that the Board identifies as unsuitable for sentencing parameters in accordance with clause (ii)); and

(II) sentencing criteria to be used by military judges in determining appropriate sentences for offenses that are identified as unsuitable for sentencing parameters in accordance with clause (ii).

(ii) Identify each offense under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that is unsuitable for sentencing parameters. The Board shall identify an offense as unsuitable for sentencing parameters if—

(I) the nature of the offense is indeterminate and unsuitable for categorization; and

(II) there is no similar criminal offense under the laws of the United States or the laws of the District of Columbia.

(iii) In developing sentencing parameters and criteria, the Board shall consider the sentencing data collected by the Military Justice Review Panel pursuant to section 946(f)(2) of title 10, United States Code (article 146(f)(2) of the Uniform Code of Military Justice).

(iv) In addition to establishing parameters for sentences of confinement under clause (i)(I), the Board

shall consider the appropriateness of establishing sentencing parameters for punitive discharges, fines, reductions, forfeitures, and other lesser punishments authorized under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

(v) The Board shall regularly—

Reviews.
Revisions.

(I) review, and propose revision to, in consideration of comments and data coming to the Board's attention, the sentencing parameters and sentencing criteria prescribed under paragraph (1); and

Proposals.
Statements.

(II) submit to the President, through the Secretary of Defense, proposed amendments to the sentencing parameters and sentencing criteria, together with statements explaining the basis for the proposed amendments.

(vi) The Board shall develop means of measuring the degree to which applicable sentencing, penal, and correctional practices are effective with respect to the sentencing factors and policies set forth in this section.

Consultation.

(vii) In fulfilling its duties and in exercising its powers, the Board shall consult authorities on, and individual and institutional representatives of, various aspects of the military criminal justice system. The Board may establish separate advisory groups consisting of individuals with current or recent experience in command and in senior enlisted positions, individuals with experience in the trial of courts-martial, and such other groups as the Board deems appropriate.

Proposals.
Statements.

(viii) The Board shall submit to the President, through the Secretary of Defense, proposed amendments to the rules for courts-martial with respect to sentencing proceedings and maximum punishments, together with statements explaining the basis for the proposed amendments.

Applicability.
10 USC 853 note.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date that is two years after the date of the enactment of this Act and shall apply to sentences adjudged in cases in which all findings of guilty are for offenses that occurred after the date that is two years after the date of the enactment of this Act.

(g) **REPEAL OF SECRETARIAL GUIDELINES ON SENTENCES FOR OFFENSES COMMITTED UNDER THE UNIFORM CODE OF MILITARY JUSTICE.**—Section 537 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1363; 10 U.S.C. 856 note) is repealed.

PART 3—REPORTS AND OTHER MATTERS

SEC. 539F. BRIEFING AND REPORT ON RESOURCING REQUIRED FOR IMPLEMENTATION.

(a) **BRIEFING AND REPORT REQUIRED.**—

Deadline.

(1) **BRIEFING.**—Not later than March 1, 2022, each Secretary concerned shall provide to the appropriate congressional committees a briefing that details the resourcing necessary to implement this subtitle and the amendments made by this subtitle.