WEST VIRGINIA CODE: §15-1E-57A

§15-1E-57a. Deferment of sentences.

(a) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in that person's sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the person who granted it or, if the accused is no longer under that person's jurisdiction, by the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(b)(1) In any case in which a court-martial sentences an accused referred to in subdivision (2) of this subsection, to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of the accused, until after the accused has been permanently released to the state military forces by a state, the United States, or a foreign country referred to in that subdivision.

(2) Subdivision (1) of this subsection applies to a person subject to this article who:

(A) While in the custody of a state, the United States, or a foreign country is temporarily returned by that state, the United States, or a foreign country to the state military forces for trial by court-martial; and

(B) After the court-martial, is returned to that state, the United States, or a foreign country under the authority of a mutual agreement or treaty, as the case may be.

(3) In this subsection, the term "state" includes the District of Columbia and any Commonwealth, Territory, or possession of the United States.

(c) In any case in which a court-martial sentences an accused to confinement and the sentence to confinement has been ordered executed, but in which review of the case under subsection (a), section sixty-seven of this article is pending, the Adjutant General may defer further service of the sentence to confinement while that review is pending.

WV Legislature