

29B.68 Vacation of suspension.

Before the vacation of the suspension of a special court-martial sentence which as approved includes a discharge under other than honorable conditions, a dismissal, or a confinement, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if the probationer so desires.

The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the adjutant general in cases involving a general court-martial sentence and to the commanding officer of the force of state military forces of which the probationer is a member in all other cases covered by this section. If the adjutant general or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

[C66, 71, 73, 75, 77, 79, 81, §29B.68; 82 Acts, ch 1042, §40]