

## **CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED**

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### **§ 1141. Involuntary separation defined**

A member of the armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and—

- (1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;
- (2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;
- (3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; and
- (4) in the case of a reserve enlisted member who is on fulltime active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the

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reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned.

(Added Pub. L. 101–510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1551; amended Pub. L. 103–160, div. A, title V, Sec. 503, Nov. 30, 1993, 107 Stat. 1644; Pub. L. 103–337, div. A, title V, Sec. 542(a)(1), Oct. 5, 1994, 108 Stat. 2767.)

### **§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs**

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall

commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall pre-separation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, pre-separation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide pre-separation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

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(A) certification and licensure requirements that are applicable to civilian occupations;

(B) civilian occupations that correspond to military occupational specialties; and

(C) Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672).

(5) If the member has a spouse, job placement counseling for the spouse.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families.

(9) Financial planning assistance.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training, and employment objectives of the member and, if the member has a spouse, the spouse of the member.

(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.

(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

(15) Information concerning veterans preference in Federal employment and Federal procurement opportunities.

(16) Contact information for housing counseling assistance.

(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.

(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary

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concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1552; amended Pub. L. 102-190, div. A, title X, Sec. 1061(a)(5), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102-484, div. D, title XLIV, Sec. 4401, 4441(b), 4462(b), Oct. 23, 1992, 106 Stat. 2701, 2730, 2740; Pub. L. 103-35, title II, Sec. 201(i)(1), May 31, 1993, 107 Stat. 100; Pub. L. 103-160, div. A, title XIII, Sec. 1332(c), Nov. 30, 1993, 107 Stat. 1797; Pub. L. 106-398, Sec. 1[[div. A], title X, Sec. 1087(a)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290; Pub. L. 107-103, title III, Sec. 302(a), Dec. 27, 2001, 115 Stat. 991; Pub. L. 109-163, div. A, title V, Sec. 594, Jan. 6, 2006, 119 Stat. 3281; Pub. L. 111-84, div. A, title X, Sec. 1073(a)(13), Oct. 28, 2009, 123 Stat. 2473.)

**§ 1143. Employment assistance**

(a) EMPLOYMENT SKILLS VERIFICATION.—The Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard shall provide to members of the armed forces who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations. The Secretary of Homeland Security shall establish permanent employment assistance centers at appropriate Coast Guard installations.

(c) INFORMATION TO CIVILIAN ENTITIES.—For the purpose of assisting members covered by subsection (a) and their spouses in locating

civilian employment and training opportunities, the Secretary of Defense and the Secretary of Homeland Security shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—

The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by nonappropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 1784(a)(2) of this title, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once. The Secretary of Homeland Security shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 103-337, div. A, title V, Sec. 542(a)(2), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 105-85, div. A, title X, Sec. 1073(a)(21), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

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### **§ 1143a. Encouragement of postseparation public and community service**

(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—

The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

(2) The Secretary shall offer personnel registered under subsection

(b) counselling services regarding—

(A) public service and community service organizations;

and

(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

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(g) DEFINITIONS.—In this section, the term “public service and community service organization” includes the following organizations:

(1) Any organization that provides the following services:

- (A) Elementary, secondary, or postsecondary school teaching or administration.
- (B) Support of such teaching or school administration.
- (C) Law enforcement.
- (D) Public health care.
- (E) Social services.
- (F) Any other public or community service.

(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).

(h) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Homeland Security shall implement the requirements of this section for the Coast Guard.

(Added Pub. L. 102-484, div. D, title XLIV, Sec. 4462(a)(1), Oct. 23, 1992, 106 Stat. 2738; amended Pub. L. 103-337, div. A, title V, Sec. 542(a)(3), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### **§ 1144. Employment assistance, job training assistance, and other transitional services: Department of Labor**

(a) IN GENERAL.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary concerned who are being separated from active duty and the spouses of such members. Such services shall be provided to a member within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide pre-separation counseling to a member described in paragraph (4)(A) of such section.

(2) The Secretary of Defense, the Secretary of Homeland Security,

and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section.

(b) ELEMENTS OF PROGRAM.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities, (C) instruction in resume preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101–237.

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(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans' service organizations, that may be of assistance to such members after separation from the armed forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

(4) Inform such members that the Department of Defense and the Department of Homeland Security are required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in those areas (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

(7) Work with military and veterans' service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.

(c) PARTICIPATION.—The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.

(d) USE OF PERSONNEL AND ORGANIZATIONS.—In carrying out the program established under this section, the Secretaries may—

(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans' employment representatives, and other employment service personnel funded

by the Department of Labor to the extent that the Secretary of Labor determines that such use will not significantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

- (2) use military and civilian personnel of the Department of Defense and the Department of Homeland Security;
- (3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;
- (4) use representatives of military and veterans' service organizations;
- (5) enter into contracts with public or private entities; and
- (6) take other necessary action to develop and furnish the information and services to be provided under this section.

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(Added Pub. L. 101–510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 102–190, div. A, title X, Sec. 1061(a)(6), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102–484, div. D, title XLIV, Sec. 4462(c), 4469, Oct. 23, 1992, 106 Stat. 2740, 2752; Pub. L. 103–337, div. A, title V, Sec. 543(b), Oct. 5, 1994, 108 Stat. 2769; Pub. L. 107–103, title III, Sec. 302(b), Dec. 27, 2001, 115 Stat. 992; Pub. L. 107–107, div. A, title X, Sec. 1048(e)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**§ 1145. Health benefits**

(a) TRANSITIONAL HEALTH CARE.—(1) For the time period described in paragraph (4), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) except as provided in paragraph (3), medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

- (A) A member who is involuntarily separated from active duty.
- (B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.
- (C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.
- (D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.
- (E) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).
- (F) A member who is separated from active duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

(3) In the case of a member described in paragraph (2)(B), the dental care to which the member is entitled under this subsection shall be the dental care to which a member of the uniformed services on active duty for more than 30 days is entitled under section 1074 of this title.

(4) Except as provided in paragraph (7), transitional health care for a member under subsection (a) shall be available for 180

days beginning on the date on which the member is separated from active duty.

(5)(A) The Secretary concerned shall require a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) to undergo a physical examination immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) has otherwise undergone a physical exam<sup>665</sup>

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ination within 12 months before the scheduled date of separation from active duty, the requirement for a physical examination under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member's unit commander.

(6)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (5), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

(B) Assistance provided to a member under paragraph (1) shall include the following:

(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

(II) any other care, treatment, and services.

(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.

(7)(A) A member who has a medical condition relating to service on active duty that warrants further medical care that has been identified during the member's 180-day transition period, which condition can be resolved within 180 days as determined by a Department of Defense physician, shall be entitled to receive medical and dental care for that medical condition, and that medical condition only, as if the member were a member of the armed forces on active duty for 180 days following the diagnosis of the condition.

(B) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (A) to the medical and dental care referred to in that subparagraph.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of

the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member

(or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or

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pay the costs of health care provided, to the member and the dependents of the member—

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

**(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE**

**ELIGIBLE.**—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member

or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) DEFINITION.—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and

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a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(e) COAST GUARD.—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents.

(Added Pub. L. 101–510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1555; amended Pub. L. 102–484, div. D, title XLIV, Sec. 4407(a), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103–160, div. A, title V, Sec. 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, Sec. 542(a)(4), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, Sec. 561(h), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, Sec. 1[[div. A], title V, Sec. 571(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 107–107, div. A, title VII, Sec. 736(a), (b), Dec. 28, 2001, 115 Stat. 1172; Pub. L. 107–296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VII, Sec. 706(a), (b), Dec. 2, 2002, 116 Stat. 2585; Pub. L. 108–375, div. A, title VII, Sec. 706(a)(1), (3), (b), Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109–163, div. A, title VII, Sec. 749, Jan. 6, 2006, 119 Stat. 3364; Pub. L. 110–181, div. A, title XVI, Sec. 1637, Jan. 28, 2008, 122 Stat. 464; Pub. L. 110–317, Sec. 4, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 110–417, [div. A], title VII, Sec. 734(a), Oct. 14, 2008, 122 Stat. 4513; Pub. L. 111–84, div. A, title VII, Sec. 703, Oct. 28, 2009, 123 Stat. 2373.)

#### **§ 1146. Commissary and exchange benefits**

(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE

DUTY.—The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the same period.

(b) MEMBERS INVOLUNTARILY SEPARATED FROM SELECTED RESERVE.—

The Secretary of Defense shall prescribe regulations to allow a member of the Selected Reserve of the Ready Reserve who is involuntarily separated from the Selected Reserve as a result of the exercise of the force shaping authority of the Secretary concerned under section 647 of this title or other force shaping authority during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Homeland Security shall implement this provision for Coast Guard members involuntarily separated during the same period.

(c) MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE.—A member of the armed forces who receives a sole survivorship discharge

(as defined in section 1174(i) of this title) is entitled to continue to use commissary and exchange stores and morale, welfare, and recreational facilities in the same manner as a member on active duty during the two-year period beginning on the later of the following dates:

- (1) The date of the separation of the member.
- (2) The date on which the member is first notified of the member’s entitlement to benefits under this section.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103-160, div. A, title V, Sec. 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title V, Sec. 542(a)(5), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105-261, div. A, title V, Sec. 561(i), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, Sec. 1 [[div. A], title V, Sec. 571(i)], Oct.

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30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 110-181, div. A, title VI, Sec. 651, Jan. 28, 2008, 122 Stat. 162; Pub. L. 110-317, Sec. 5, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 111-383, div. A, title X, Sec. 1075(b)(16), Jan. 7, 2011, 124 Stat. 4369.)

#### **§ 1147. Use of military family housing**

##### **(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—(1)**

The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the period beginning on October 1, 1994, and ending on December 31, 2001, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.

(b) RENTAL CHARGES.—The Secretary concerned, pursuant to such regulations, shall require a reasonable rental charge for the continued use of military family housing under subsection (a), except that such Secretary may waive all or any portion of such charge in any case of hardship.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103-160, div. A, title V, Sec. 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title V, Sec. 542(a)(6), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105-261, div. A, title V, Sec. 561(j), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, Sec. 1 [[div. A], title V, Sec. 571(j)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135.)

#### **§ 1148. Relocation assistance for personnel overseas**

The Secretary of Defense and the Secretary of Homeland Security shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to the maximum extent possible, computerized job relocation assistance and job search information.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103-337, div. A, title V, Sec. 542(a)(7), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### **§ 1149. Excess leave and permissive temporary duty**

Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard, the Secretary concerned shall grant a member of the armed forces who is to be involuntarily separated such excess leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member's carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.

(Added Pub. L. 101-510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1557; amended Pub. L. 103-337, div. A, title V, Sec. 542(a)(8), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 107-296,

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title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**§ 1150. Affiliation with Guard and Reserve units: waiver of certain limitations**

(a) PREFERENCE FOR CERTAIN PERSONS.—A person who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, 2001, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

(b) LIMITED WAIVER OF STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, a person covered by subsection (a) who enters a National Guard or Reserve unit pursuant to an application described in such subsection may be retained in that unit for up to three years without regard to reserve-component strength limitations so long as the individual maintains good standing in that unit.

(c) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Homeland Security shall prescribe regulations to implement this section for the Coast Guard.

(Added Pub. L. 101–510, div. A, title V, Sec. 502(a)(1), Nov. 5, 1990, 104 Stat. 1557; amended Pub. L. 102–484, div. A, title V, Sec. 514, Oct. 23, 1992, 106 Stat. 2406; Pub. L. 103–160, div. A, title V, Sec. 561(j), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, Sec. 542(a)(9), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, Sec. 561(p), Oct. 17, 1998, 112 Stat. 2027; Pub. L. 106–398, Sec. 1[[div. A], title V, Sec. 571(o)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

**§ 1151. Retention of assistive technology and services provided before separation**

(a) AUTHORITY.—A member of the armed forces who is provided an assistive technology or assistive technology device for a severe or debilitating illness or injury incurred or aggravated by such member while on active duty may, under regulations prescribed by the Secretary of Defense, be authorized to retain such assistive technology or assistive technology device upon the separation of the member from active service.

(b) DEFINITIONS.—In this section, the terms “assistive technology” and “assistive technology device” have the meaning given those terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(Added Pub. L. 109–364, div. A, title V, Sec. 561(a), Oct. 17, 2006, 120 Stat. 2219.)

**§ 1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies**

(a) PLACEMENT PROGRAM.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies following the discharge or release of such members or former members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

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(b) ELIGIBLE MEMBERS.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the

armed forces and is separated with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note); and

(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribed in accordance with the agreement.

(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may provide funds to the Attorney General for grants under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

(2) No grant with respect to an eligible member or former member may exceed a total of \$50,000.

(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

(f) REQUIREMENT FOR APPROPRIATION.—No person may be selected to participate in the program established pursuant to subsection

(a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

(g) AUTHORITY TO EXPAND PLACEMENT TO INCLUDE FIREFIGHTERS.—(

1) The Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

(2) The expansion authorized by this subsection may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary

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considers appropriate.

(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(Added Pub. L. 103-160, div. A, title XIII, Sec. 1332(a), Nov. 30, 1993, 107 Stat. 1793; amended Pub. L. 103-337, div. A, title V, Sec. 543(d), title XI, Sec. 1132(a)(1), Oct. 5, 1994, 108 Stat. 2771, 2872; Pub. L. 104-106, div. A, title XV, Sec. 1503(a)(11), Feb. 10, 1996, 110 Stat. 511; Pub. L. 104-201, div. A, title V, Sec. 575, Sept. 23, 1996, 110 Stat. 2535; Pub. L. 105-85, div. A, title X, Sec. 1073(a)(20), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107-296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### **§ 1153. Assistance to separated members to obtain employment with health care providers**

(a) **PLACEMENT PROGRAM.**—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may establish a program to assist eligible members of the armed forces to obtain employment with health care providers upon their discharge or release from active duty.

(b) **ELIGIBLE MEMBERS.**—(1) Except as provided in paragraph (2), a member shall be eligible for selection to participate in the program established under subsection (a) if the member—

(A) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1293 note) during the six-year period beginning on October 1, 1993;

(B) has received an associate degree, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(C) has a military occupational specialty, training, or experience related to health care, is likely to be able to obtain such training in a short period of time (as determined by the Secretary concerned), or satisfies such other criteria for selection as the Secretary concerned may prescribe.

(2) For purposes of this section, a former member of the armed forces who did not meet the minimum educational qualification criterion set forth in paragraph (1)(B) for placement assistance before discharge or release from active duty shall be considered to be a member satisfying such educational qualification criterion upon

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satisfying that criterion within five years after discharge or release from active duty.

(3) A member who is discharged or released from service under other than honorable conditions shall not be eligible to participate in the program.

(c) **SELECTION OF PARTICIPANTS.**—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, shall select members to participate in the program established under subsection (a) on the basis of applications submitted to the Secretary concerned not later than one year after the date of the discharge or release of the members from active duty or, in the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (b)(2), not later than one year after the date on which the applicant becomes

educationally qualified. An application shall be in such form and contain such information as the Secretaries may require.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may not select a member to participate in the program unless the Secretary concerned has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (d) with respect to that member.

(3)(A) The Secretaries shall provide under the program for identifying, during each fiscal year in the period referred to in subsection (b)(1)(A), noncommissioned officers who, on or before the end of such fiscal year, will have completed 10 or more years of continuous active duty, who have the potential to perform competently in employment positions with health care providers, but who do not satisfy the minimum educational qualification criterion under subsection (b)(1)(B) for placement assistance.

(B) The Secretaries shall inform noncommissioned officers identified under subparagraph (A) of the opportunity to qualify in accordance with subsection (b)(2) for placement assistance under the program.

(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense and the Secretary of Homeland Security may enter into an agreement with a health care provider to assist eligible members selected under subsection (c) to obtain suitable employment with the health care provider. Under such an agreement, a health care provider shall agree to employ a participant in the program on a full-time basis for at least five years.

(2) Under an agreement referred to in paragraph (1), the Secretary concerned shall agree to pay to the health care provider involved an amount based upon the basic salary paid by the health care provider to the participant. The rate of payment by the Secretary concerned shall be as follows:

(A) For the first year of employment, 50 percent of the basic salary, except that the payment may not exceed \$25,000.

(B) For the second year of employment, 40 percent of the basic salary, except that the payment may not exceed \$10,000.

(C) For the third year of employment, 30 percent of the basic salary, except that the payment may not exceed \$7,500.

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(D) For the fourth year of employment, 20 percent of the basic salary, except that the payment may not exceed \$5,000.

(E) For the fifth year of employment, 10 percent of the basic salary, except that the payment may not exceed \$2,500.

(3) Payments required under paragraph (2) may be made by the Secretary concerned in such installments as the Secretary concerned may determine.

(4) If a participant who is placed under this program leaves the employment of the health care provider before the end of the five years of required employment service, the provider shall reimburse the Secretary concerned in an amount that bears the same ratio to the total amount already paid under the agreement as the unserved portion bears to the five years of required service.

(5) The Secretary concerned may not make a grant under this subsection to a health care provider if the Secretary concerned determines that the provider terminated the employment of another employee in order to fill the vacancy so created with a participant

in this program.

(e) AGREEMENTS WITH STATES.—(1) In addition to the agreements referred to in subsection (d)(1), the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement directly with a State to allow the State to arrange the placement of participants in the program with health care providers. Paragraphs (2) through (5) of subsection (d) shall apply with respect to any placement made through such an agreement.

(2) The Secretary concerned may reserve up to 10 percent of the funds made available to carry out the program for a fiscal year for the placement of participants through agreements entered into under paragraph (1).

(f) DEFINITIONS.—In this section, the term “State” includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

(Added Pub. L. 103–160, div. A, title XIII, Sec. 1332(b), Nov. 30, 1993, 107 Stat. 1795; amended Pub. L. 103–337, div. A, title V, Sec. 543(e), Oct. 5, 1994, 108 Stat. 2771; Pub. L. 107–296, title XVII, Sec. 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)