

(4) the instrument is executed in accordance with such additional requirements as may be provided in regulations prescribed under this section.

(d) **SELF-PROVING MILITARY TESTAMENTARY INSTRUMENTS.**—(1) If the document setting forth a military testamentary instrument meets the requirements of paragraph (2), then the signature of a person on the document as the testator, an attesting witness, a notary, or the presiding attorney, together with a written representation of the person's status as such and the person's military grade (if any) or other title, is prima facie evidence of the following:

(A) That the signature is genuine.

(B) That the signatory had the represented status and title at the time of the execution of the will.

(C) That the signature was executed in compliance with the procedures required under the regulations prescribed under subsection (f).

(2) A document setting forth a military testamentary instrument meets the requirements of this paragraph if it includes (or has attached to it), in a form and content required under the regulations prescribed under subsection (f), each of the following:

(A) A certificate, executed by the testator, that includes the testator's acknowledgment of the testamentary instrument.

(B) An affidavit, executed by each witness signing the testamentary instrument, that attests to the circumstances under which the testamentary instrument was executed.

(C) A notarization, including a certificate of any administration of an oath required under the regulations, that is signed by the notary or other official administering the oath.

(e) **STATEMENT TO BE INCLUDED.**—(1) Under regulations prescribed under this section, each military testamentary instrument shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a testamentary instrument that does not include a statement described in that paragraph.

(f) **REGULATIONS.**—Regulations for the purposes of this section shall be prescribed jointly by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy.

(g) **DEFINITIONS.**—In this section:

(1) The term "person eligible for military legal assistance" means a person who is eligible for legal assistance under section 1044 of this title.

(2) The term "military legal assistance counsel" means—

(A) a judge advocate (as defined in section 801(13) of this title); or

(B) a civilian attorney serving as a legal assistance officer under the provisions of section 1044 of this title.

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 106-398, § 1 [[div. A], title V, § 551(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-123; amended Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### AMENDMENTS

2002—Subsec. (f). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

#### § 1045. Voluntary withholding of State income tax from retired or retainer pay

(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar month shall be retained by the Secretary concerned and disbursed to the States during the following calendar month.

(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

(e) In this section:

(1) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) The term “Secretary concerned” includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98-525, title VI, § 654(a), Oct. 19, 1984, 98 Stat. 2551; amended Pub. L. 100-26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109-163, div. A, title VI, § 661, Jan. 6, 2006, 119 Stat. 3314.)

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163, in third sentence, substituted “any calendar month” for “any calendar quarter” and “during the following calendar month” for “during the month following that calendar quarter”.

1987—Subsec. (e)(1), (2). Pub. L. 100-26 inserted “The term” after each par. designation.

#### § 1046. Overseas temporary foster care program

(a) PROGRAM AUTHORIZED.—The Secretary concerned may establish a program to provide temporary foster care services outside the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.

(Added Pub. L. 102-484, div. A, title VI, § 651(a), Oct. 23, 1992, 106 Stat. 2425.)

#### PRIOR PROVISIONS

A prior section 1046, added Pub. L. 98-525, title VII, § 708(a)(1), Oct. 19, 1984, 98 Stat. 2572, related to pre-separation counseling, prior to repeal by Pub. L. 101-510, div. A, title V, § 502(b)(1), Nov. 5, 1990, 104 Stat. 1557.

#### § 1047. Allowance for civilian clothing

(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing and luggage to a member at a cost not to exceed \$250, or reimburse a member for the purchase of civilian clothing and luggage in an amount not to exceed \$250, in the case of a member who—

(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.

(b) CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than \$40, to an enlisted member who is—

(1) discharged for misconduct or unsuitability or under conditions other than honorable;

(2) sentenced by a civil court to confinement in a prison;

(3) interned or discharged as an alien enemy; or

(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

(Added Pub. L. 98-525, title XIV, § 1401(d)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 108-375, div. A, title V, § 584(a), Oct. 28, 2004, 118 Stat. 1929; Pub. L. 110-181, div. A, title VI, § 634, Jan. 28, 2008, 122 Stat. 155.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8024], 98 Stat. 1904, 1928.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 727, 97 Stat. 1443.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 730], 96 Stat. 1833, 1855.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 730, 95 Stat. 1584.

Dec. 15, 1980, Pub. L. 96-527, title VII, § 731, 94 Stat. 3086.

Dec. 21, 1979, Pub. L. 96-154, title VII, § 731, 93 Stat. 1157.

Oct. 13, 1978, Pub. L. 95-457, title VIII, § 831, 92 Stat. 1249.

Sept. 21, 1977, Pub. L. 95-111, title VIII, § 830, 91 Stat. 905.

Sept. 22, 1976, Pub. L. 94-419, title VII, § 730, 90 Stat. 1296.

Feb. 9, 1976, Pub. L. 94-212, title VII, § 730, 90 Stat. 173.

Oct. 8, 1974, Pub. L. 93-437, title VIII, § 831, 88 Stat. 1230.

Jan. 2, 1974, Pub. L. 93-238, title VII, § 732, 87 Stat. 1044.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 732, 86 Stat. 1201.

Dec. 18, 1971, Pub. L. 92-204, title VII, § 733, 85 Stat. 733.

Jan. 11, 1971, Pub. L. 91-668, title VIII, § 833, 84 Stat. 2036.

Dec. 29, 1969, Pub. L. 91-171, title VI, § 633, 83 Stat. 485.

Oct. 17, 1968, Pub. L. 90-580, title V, § 532, 82 Stat. 1135.

Sept. 29, 1967, Pub. L. 90-96, title VI, § 632, 81 Stat. 247.

Oct. 15, 1966, Pub. L. 89-687, title VI, § 633, 80 Stat. 996.

Sept. 29, 1965, Pub. L. 89-213, title VI, § 633, 79 Stat. 879.

Aug. 19, 1964, Pub. L. 88-446, title V, § 533, 78 Stat. 480.

Oct. 17, 1963, Pub. L. 88-149, title V, § 533, 77 Stat. 269.

Aug. 9, 1962, Pub. L. 87-577, title V, § 534, 76 Stat. 333.

Aug. 17, 1961, Pub. L. 87-144, title VI, § 634, 75 Stat. 381.

July 7, 1960, Pub. L. 86-601, title II, § 201, 74 Stat. 340-342.

Aug. 18, 1959, Pub. L. 86-166, title II, § 201, 73 Stat. 368-370.

Aug. 22, 1958, Pub. L. 85-724, title III, § 301, title IV, § 401, title V, § 501, 72 Stat. 714, 717, 721.

Aug. 2, 1957, Pub. L. 85-117, title III, § 301, title IV, § 401, title V, § 501, 71 Stat. 314, 316, 321.

July 2, 1956, ch. 488, title III, § 301, title IV, § 401, title V, § 501, 70 Stat. 457, 459, 464.

July 13, 1955, ch. 358, title III, § 301, title IV, § 401, title V, § 501, 69 Stat. 304, 306, 312.

June 30, 1954, ch. 432, title IV, § 401, title V, § 501, title VI, § 601, 68 Stat. 339, 342, 347.

Aug. 1, 1953, ch. 305, title III, § 301, title IV, § 401, title V, § 501, 67 Stat. 339, 342, 348.

July 10, 1952, ch. 630, title III, § 301, title IV, § 401, title V, § 501, 66 Stat. 520, 524, 529.

Oct. 18, 1951, ch. 512, title III, § 301, title IV, § 401, title V, § 501, 65 Stat. 429, 437, 443.

Sept. 6, 1950, ch. 896, Ch. X, title III, § 301, title IV, § 401, title V, § 501, 64 Stat. 735, 743, 749.