

to replace a military decoration, the Secretary concerned shall replace, on a one-time basis and without charge, a military decoration upon the request of the recipient of the military decoration or the immediate next of kin of a deceased recipient.

(b) **MILITARY DECORATION DEFINED.**—In this section, the term “decoration” means any decoration or award (other than the medal of honor) that may be presented or awarded by the President or the Secretary concerned to a member of the armed forces.

(Added Pub. L. 110-417, [div. A], title V, § 571(a), Oct. 14, 2008, 122 Stat. 4471.)

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

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#### **AMENDMENTS**

2006—Pub. L. 109-364, div. A, title V, § 561(b), Oct. 17, 2006, 120 Stat. 2220, added item 1151.

1999—Pub. L. 106-65, div. A, title XVII, § 1707(a)(2), Oct. 5, 1999, 113 Stat. 823, struck out item 1151 “Assistance to separated members to obtain certification and employment as teachers or employment as teachers’ aides”.

1994—Pub. L. 103-337, div. A, title V, § 542(a)(10), title XI, § 1132(a)(2), Oct. 5, 1994, 108 Stat. 2768, 2873, struck out “: Department of Defense” after “assistance” in item 1143 and after “service” in item 1143a and substituted “eligible members and former members” for “separated members” in item 1152.

1993—Pub. L. 103-160, div. A, title XIII, § 1332(e), Nov. 30, 1993, 107 Stat. 1797, added items 1152 and 1153.

1992—Pub. L. 102-484, div. D, title XLIV, §§ 4441(a)(2), 4462(a)(2), Oct. 23, 1992, 106 Stat. 2730, 2740, added items 1143a and 1151.

#### **§ 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 involun-

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

#### **AMENDMENTS**

1994—Pub. L. 103-337, in introductory provisions, substituted “armed forces” for “Army, Navy, Air Force, or Marine Corps” and “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,” for “or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994”.

1993—Pub. L. 103-160 inserted “or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994” after “September 30, 1990,”.

#### **EFFECTIVE DATE OF 1994 AMENDMENT**

Section 542(e) of Pub. L. 103-337 provided that: “This section [amending this section and sections 1143, 1143a, 1145 to 1150, 1174a, and 1175 of this title and enacting provisions set out as a note under section 1293 of this title] and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994.”

#### **TRANSFER OF FUNCTIONS**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 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 preseparation 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, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible, preseparation 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 preseparation 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—

(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, inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs.

(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 and the availability to the member and dependents of suicide prevention resources following separation from the armed forces.

(9) Financial planning assistance, including information on budgeting, saving, credit, loans, and taxes.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training,<sup>1</sup> employment, and financial 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.

<sup>1</sup> So in original.