

“(2) ACCOUNTING FOR GOAL.—In implementing the program, the Secretary of Defense, in coordination with the officials specified in subsection (f)(1) of section 1509 of title 10, United States Code, shall provide such funds, personnel, and resources as the Secretary considers appropriate to increase significantly the capability and capacity of the Department of Defense, the Armed Forces, and commanders of the combatant commands to account for missing persons so that, beginning with fiscal year 2015, the POW/MIA accounting community has sufficient resources to ensure that at least 200 missing persons are accounted for under the program annually.

“(3) DEFINITIONS.—In this subsection:

“(A) The term ‘accounted for’ has the meaning given such term in section 1513(3)(B) of title 10, United States Code.

“(B) The term ‘POW/MIA accounting community’ has the meaning given such term in section 1509(b)(2) of such title.”

§ 1510. Applicability to Coast Guard

(a) DESIGNATED OFFICER TO HAVE RESPONSIBILITY.—The Secretary of Homeland Security shall designate an officer of the Department of Homeland Security to have responsibility within the Department of Homeland Security for matters relating to missing persons who are members of the Coast Guard.

(b) PROCEDURES.—The Secretary of Homeland Security shall prescribe procedures for the determination of the status of persons described in section 1501(c) of this title who are members of the Coast Guard and for the collection, analysis, review, and update of information on such persons. To the maximum extent practicable, the procedures prescribed under this section shall be similar to the procedures prescribed by the Secretary of Defense under section 1501(b) of this title.

(Added Pub. L. 104–106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 349; amended Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Pub. L. 107–296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

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.

§ 1511. Return alive of person declared missing or dead

(a) PAY AND ALLOWANCES.—Any person (except for a person subsequently determined to have been absent without leave or a deserter) in a missing status or declared dead under subchapter VII of chapter 55 of title 5 or chapter 10 of title 37 or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

(b) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by

any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before February 10, 1996.

(Added Pub. L. 104–106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 349; amended Pub. L. 107–107, div. A, title X, § 1048(c)(10), Dec. 28, 2001, 115 Stat. 1226.)

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–107 substituted “February 10, 1996” for “the date of the enactment of this chapter”.

§ 1512. Effect on State law

(a) NONPREEMPTION OF STATE AUTHORITY.—Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of such State or political subdivision.

(b) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Added Pub. L. 104–106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 349.)

§ 1513. Definitions

In this chapter:

(1) The term “missing person” means—

(A) a member of the armed forces on active duty who is in a missing status; or

(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves in direct support of, or accompanies, the armed forces in the field under orders and who is in a missing status.

Such term includes an unaccounted for person described in subsection (a) of section 1509 of this title who is required by subsection (b) of such section to be considered a missing person.

(2) The term “missing status” means the status of a missing person who is determined to be absent in a category of any of the following:

(A) Missing.

(B) Missing in action.

(C) Interned in a foreign country.

(D) Captured.

(E) Beleaguered.

(F) Besieged.

(G) Detained in a foreign country against that person’s will.

(3) The term “accounted for”, with respect to a person in a missing status, means that—

(A) the person is returned to United States control alive;

(B) the remains of the person are recovered and, if not identifiable through visual means as those of the missing person, are identified as those of the missing person by a practitioner of an appropriate forensic science; or

(C) credible evidence exists to support another determination of the person’s status.

(4) The term “primary next of kin”, in the case of a missing person, means the individual authorized to direct disposition of the remains of the person under section 1482(c) of this title.

(5) The term “member of the immediate family”, in the case of a missing person, means the following:

(A) The spouse of the person.

(B) A natural child, adopted child, step-child, or illegitimate child (if acknowledged by the person or parenthood has been established by a court of competent jurisdiction) of the person, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child.

(C) A biological parent of the person, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored.

(D) A brother or sister of the person, if such brother or sister has attained the age of 18 years.

(E) Any other blood relative or adoptive relative of the person, if such relative was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

(6) The term “previously designated person”, in the case of a missing person, means an individual designated by the person under section 655 of this title for purposes of this chapter.

(7) The term “classified information” means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

(8) The term “theater component commander” means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.

(Added Pub. L. 104-106, div. A, title V, §569(b)(1), Feb. 10, 1996, 110 Stat. 350; amended Pub. L. 104-201, div. A, title V, §578(a)(4), (b)(3), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105-85, div. A, title V, §599(a)(4), (b)(2), Nov. 18, 1997, 111 Stat. 1768; Pub. L. 106-65, div. A, title X, §1066(a)(15), Oct. 5, 1999, 113 Stat. 771; Pub. L. 111-84, div. A, title V, §541(c), Oct. 28, 2009, 123 Stat. 2298.)

AMENDMENTS

2009—Par. (1). Pub. L. 111-84 substituted “subsection (a) of section 1509 of this title who is required by subsection (b) of such section” for “section 1509(b) of this title who is required by section 1509(a)(1) of this title” in concluding provisions.

1999—Par. (1). Pub. L. 106-65 substituted “who is required by section 1509(a)(1) of this title to be considered a missing person” for “, under the circumstances specified in the last sentence of section 1509(a) of this title” in concluding provisions.

1997—Par. (1). Pub. L. 105-85, §599(a)(4), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘missing person’ means a member of the armed forces on active duty who is in a missing status.”

Par. (8). Pub. L. 105-85, §599(b)(2), added par. (8).

1996—Par. (1). Pub. L. 104-201, §578(a)(4), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘missing person’ means—

“(A) a member of the Armed Forces on active duty who is in a missing status; or

“(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the Armed Forces in the field under orders and who is in a missing status.”

Par. (8). Pub. L. 104-201, §578(b)(3), struck out par. (8) which read as follows: “The term ‘theater component commander’ means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.”

CHAPTER 77—POSTHUMOUS COMMISSIONS AND WARRANTS

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AMENDMENTS

1966—Pub. L. 89-718, §12(a)(2), Nov. 2, 1966, 80 Stat. 1117, added item 1524.

§ 1521. Posthumous commissions

(a) The President may issue, or have issued, an appropriate commission in the name of a member of the armed forces who, after September 8, 1939—

(1) was appointed to a commissioned grade but was unable to accept the appointment because of death;

(2) successfully completed the course at an officers’ training school and was recommended for appointment to a commissioned grade by the commanding officer or officer in charge of the school but was unable to accept the appointment because of death; or

(3) was officially recommended for appointment or promotion to a commissioned grade but was unable to accept the promotion or appointment because of death.

(b) A commission issued under subsection (a) shall issue as of the date of the appointment, recommendation, or official recommendation, as the case may be, and the member’s name shall be carried on the records of the military or executive department concerned as if he had served in the grade, and branch if any, in which posthumously commissioned, from the date of the appointment, recommendation, or official recommendation to the date of his death.

(c) A commission issued under subsection (a) in connection with the promotion of a deceased member to a higher commissioned grade shall require certification by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115; Pub. L. 106-398, §1 [[div. A], title V, §505], Oct. 30, 2000, 114 Stat. 1654, 1654A-102; Pub. L. 110-417, [div. A], title V, §502(a), Oct. 14, 2008, 122 Stat. 4433.)