

(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

Sec.	
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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.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1521(a)	10:491a (words before semicolon). 10:491b (words before semicolon). 10:491c (words before semicolon). 34:285b (words before semicolon). 34:285c (words before semicolon). 34:285d (words before semicolon).	July 28, 1942, ch. 528, §§1-3, 56 Stat. 722, 723; July 17, 1953, ch. 220, §1(a)-(c), 67 Stat. 176.
1521(b)	10:491a (words after semicolon). 10:491b (words after semicolon). 10:491c (words after semicolon). 34:285b (words after semicolon). 34:285c (words after semicolon). 34:285d (words after semicolon).	

In subsection (a), the words “a member of” are substituted for the words “any person who, while in”, in 10:491a, 491b, 491c, and 34:285b, 285c, and 285d. The words “armed forces” are substituted for the words “military service of the United States”, in 10:491a, 491b, and 491c; and the words “naval service of the United States”, in 34:285b, 285c, and 285d (which did not appear in the source statute for the revised section, as amended by the Act of July 17, 1953, ch. 220, §1(b), 67 Stat. 177). The words “to such grade”, in 10:491a and 34:285b, “receive or”, in 10:491c and 34:285d, are omitted as surplusage.

In subsection (b), the words “if any” are substituted for words “of the service”. The words “appointment and”, in 10:491b and 34:285c, and “appointment or promotion and”, in 10:491c and 34:285d, are omitted as surplusage.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417, §502(a)(1), struck out “in line of duty” after “death” in pars. (1) to (3). Subsec. (c). Pub. L. 110-417, §502(a)(2), added subsec. (c).

2000—Subsec. (a)(3). Pub. L. 106-398, §1 [[div. A], title V, §505(a)], struck out “and the recommendation for whose appointment or promotion was approved by the Secretary concerned” after “commissioned grade”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title V, §505(b)], substituted “official recommendation” for “approval” in two places.

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see sections 1(a) and 2(a) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

DETERMINATION OF DATE OF DEATH UNDER MISSING PERSONS ACT

Section 5 of act July 28, 1942, ch. 528, as added July 17, 1953, ch. 220, §1(e), 67 Stat. 177, provided that for purposes of this chapter, in any case where the date of death is established under the Missing Persons Act, as amended, the date of death is the date of receipt by the head of the department concerned of evidence that the person is dead, or the date the finding of death is made under section 5 of that Act, prior to repeal by Pub. L. 89-718, §12(b), Nov. 2, 1966, 80 Stat. 1117. See section 1524 of this title.

§ 1522. Posthumous warrants

(a) The Secretary concerned may issue, or have issued, an appropriate warrant in the name of a member of the armed forces who, after September 8, 1939, was officially recommended for appointment or promotion to a grade other than

a commissioned grade but was unable to accept the appointment or promotion because of death.

(b) A warrant issued under subsection (a) shall issue as of the date of the recommendation, 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 to which posthumously appointed or promoted from the date of the recommendation to the date of his death.

(c) A warrant issued under subsection (a) in connection with the promotion of a deceased member to a higher grade shall require a finding 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. 116; Pub. L. 110-417, [div. A], title V, §502(b), Oct. 14, 2008, 122 Stat. 4433.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1522(a)	10:612 (words before semicolon). 34:285e (words before semicolon).	July 28, 1942, ch. 528, §4, 56 Stat. 723; July 17, 1953, ch. 220, §1 (a)-(d), 67 Stat. 176.
1522(b)	10:612 (words after semicolon). 34:285e (words after semicolon).	

In subsection (a), the words “a member of” are substituted for the words “any person who, while in”, in 10:612 and 34:285e. The words “armed forces” are substituted for the words “the military service of the United States”, in 10:612; and “the naval service of the United States”, in 34:285e (which did not appear in the source statute for the revised section, as amended by the act of July 17, 1953, ch. 220, §1(b), 67 Stat. 177). The words “other than a commissioned grade” are substituted for the words “noncommissioned grade” to make it clear that the revised section covers warrant officers. The words “receive or” are omitted as surplusage.

In subsection (b), the words “appointment or promotion”, “and branch of the service”, “official”, and “by such warrant” are omitted as surplusage.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417, §502(b)(1), struck out “in line of duty” before period at end.

Subsec. (c). Pub. L. 110-417, §502(b)(2), added subsec. (c).

§ 1523. Posthumous commissions and warrants: effect on pay and allowances

No person is entitled to any bonus, gratuity, pay, or allowance because of a posthumous commission or warrant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1523	10:491d. 34:285f.	July 28, 1942, ch. 528, §6, 56 Stat. 723; July 17, 1953, ch. 220, §1(e) (1st 7 words), 67 Stat. 177.

The word “receive” is omitted as surplusage. The words “because of a posthumous commission or warrant” are substituted for the words “by virtue of any provision of sections 491a-491d [285b-285d] and 612 [285e] of this title”, in 10:491d and 34:285f.