

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.)

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<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.

§ 1524. Posthumous commissions and warrants: determination of date of death

For the purposes of sections 1521 and 1522 of this title, in any case where the date of death is established or determined under section 551–558 of title 37, the date of death is the date the Secretary concerned receives evidence that the person is dead, or the date the finding of death is made under section 555 of title 37.

(Added Pub. L. 89–718, §12(a)(1), Nov. 2, 1966, 80 Stat. 1117.)

CHAPTER 79—CORRECTION OF MILITARY RECORDS

- Sec.
- 1551. Correction of name after separation from service under an assumed name.
- 1552. Correction of military records: claims incident thereto.
- 1553. Review of discharge or dismissal.
- 1554. Review of retirement or separation without pay for physical disability.
- 1554a. Review of separation with disability rating of 20 percent disabled or less.
- 1555. Professional staff.
- 1556. Ex parte communications prohibited.
- 1557. Timeliness standards for disposition of applications before Corrections Boards.
- 1558. Review of actions of selection boards: correction of military records by special boards; judicial review.
- 1559. Personnel limitation.

AMENDMENTS

2008—Pub. L. 110–181, div. A, title XVI, §1643(a)(2), Jan. 28, 2008, 122 Stat. 467, added item 1554a.

2002—Pub. L. 107–314, div. A, title V, §552(b), Dec. 2, 2002, 116 Stat. 2552, added item 1559.

2001—Pub. L. 107–107, div. A, title V, §503(a)(2), Dec. 28, 2001, 115 Stat. 1083, added item 1558.

1998—Pub. L. 105–261, div. A, title V, §§542(a)(2), 543(a)(2), 544(b), Oct. 17, 1998, 112 Stat. 2020–2022, added items 1555 to 1557.

1962—Pub. L. 87–651, title I, §110(b), Sept. 7, 1962, 76 Stat. 510, substituted “discharge or dismissal” for “discharges or dismissals” in item 1553, and “retirement or separation without pay for physical disability” for “decisions of retiring boards and similar boards” in item 1554.

1958—Pub. L. 85–857, §13(v)(3), Sept. 2, 1958, 72 Stat. 1268, added items 1553 and 1554.

§ 1551. Correction of name after separation from service under an assumed name

The Secretary of the military department concerned shall issue a certificate of discharge or an order of acceptance of resignation in the true name of any person who was separated from the Army, Navy, Air Force, or Marine Corps honorably or under honorable conditions after serving under an assumed name during a war with another nation or people, upon application by, or on behalf of, that person, and upon proof of his identity. However, a certificate or order may not be issued under this section if the name was assumed to conceal a crime or to avoid its consequences.

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

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<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1551	5:200, 34:597.	Apr. 14, 1890, ch. 80; re-stated June 25, 1910, ch. 393, 36 Stat. 824.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
		Aug. 22, 1912, ch. 329, 37 Stat. 324.

The word “shall” is substituted for the words “is authorized and required”. The word “separated” is substituted for the word “discharged”, since the revised section covers acceptances of resignations as well as certificates of discharge. The words “enlisted or” and “while minors or otherwise” are omitted as surplusage. The words “the War of the Rebellion” are omitted as obsolete. The word “with” is substituted for the words “between the United States and”. The words “honorably or under honorable conditions” are substituted for the word “honorably”.

PERSONNEL FREEZE FOR SERVICE REVIEW AGENCIES

Pub. L. 105–261, div. A, title V, §541, Oct. 17, 1998, 112 Stat. 2019, provided that, during fiscal years 1999, 2000, and 2001, the Secretary of a military department could not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until: (1) the Secretary had submitted to Congress a report that described the reduction to be made and the rationale for that reduction, and specified the number of such personnel that would be assigned to duty with that agency after the reduction; and (2) a period of 90 days had elapsed after the date on which such report had been submitted.

§ 1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary’s department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a)(1) unless the claimant or his heir or legal representative files a request for the correction within three years after he discovers the error or injustice. However, a board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.