

(E) a person determined to be dependent by the Secretary concerned, or his designee.

(2) The term “missing status” means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

- (A) missing;
- (B) missing in action;
- (C) interned in a foreign country;
- (D) captured, beleaguered, or besieged by a hostile force; or
- (E) detained in a foreign country against his will.

(3) The term “pay and allowances” means—

- (A) basic pay;
- (B) special pay;
- (C) incentive pay;
- (D) basic allowance for housing;
- (E) basic allowance for subsistence; and
- (F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 99-145, title XIII, §1301(g), Nov. 8, 1985, 99 Stat. 737; Pub. L. 100-26, §8(e)(10), Apr. 21, 1987, 101 Stat. 287; Pub. L. 105-85, div. A, title VI, §603(d)(1)(D), Nov. 18, 1997, 111 Stat. 1782.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i>                                                            | <i>Source (Statutes at Large)</i>                                                                                                                                                                                                                                                                                                     |
|------------------------|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 551(1) .....           | 50 App. 1001.                                                                        | Mar. 7, 1942, ch. 166, §1, 56 Stat. 143; July 1, 1944, ch. 371, §1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88-428, §1(1), (2), 78 Stat. 437.                                                                                                                                                                                            |
| 551(2) .....           | 50 App. 1002(a) (22d through 66th words of 1st sentence, for definition purposes).   | Mar. 7, 1942, ch. 166, §2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, §2, 58 Stat. 679; Apr. 4, 1953, ch. 17, §1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, §1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, §1(3)(A), 78 Stat. 437. |
| 551(3) .....           | 50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes). |                                                                                                                                                                                                                                                                                                                                       |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words “In this chapter” are substituted for “For the purpose of this Act”.

In clause (1), the words “with respect to a member of a uniformed service” are inserted for clarity. In clause (1)(A), the word “lawful” is omitted as unnecessary in view of the accepted recognition of the fact that the word “wife” means a lawful wife. In clause (1)(E), the words “Secretary concerned, or his designee” are substituted for “head of the department concerned, or subordinate designated by him” to conform to the definition in 37 U.S.C. 101(5). The definitions of “person”, “active service”, and “department”, respectively, in 50 App. U.S.C. 1001(a)(1), (b), and (d) are omitted as unnecessary in view of the definitions of “member”, “uniformed services”, “active service”, and “Secretary concerned”, in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

#### AMENDMENTS

1997—Par. (3)(D). Pub. L. 105-85 substituted “housing” for “quarters”.

1987—Pub. L. 100-26 substituted “In this chapter:” for “In this chapter—”, inserted “The term” at beginning of pars. (1) to (3), and substituted period for semicolon at end of par. (1) and period for “; and” at end of par. (2).

1985—Par. (1)(A). Pub. L. 99-145 substituted “spouse” for “wife”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### § 552. Pay and allowances; continuance while in a missing status; limitations

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective for all purposes.

(b) The expiration of a member’s term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a). Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of this title or under chapter 76 of title 10.

(c) A member is not entitled to pay and allowances under subsection (a) for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to

be credited with pay and allowances under subsection (a).

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 92-169, §1, Nov. 24, 1971, 85 Stat. 489; Pub. L. 92-482, Oct. 12, 1972, 86 Stat. 796; Pub. L. 93-26, §1, Apr. 27, 1973, 87 Stat. 26; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title V, §569(c)(2), Feb. 10, 1996, 110 Stat. 351.)

#### HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)                                                | Source (Statutes at Large)                                                                                                                                                                                                                |
|-----------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 552(a) .....    | 50 App. 1002(a) (1st sentence, less last 46 words).               | Mar. 7, 1942, ch. 166, §2(a); added July 1, 1944, ch. 371, §2, 58 Stat. 679; Apr. 4, 1953, ch. 17, §1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, §1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, §1(3), 78 Stat. 437. |
|                 | 50 App. 1014 (as applicable to §1002(a) (1st sentence)).          | Mar. 7, 1942, ch. 166, §14 (as applicable to §2(a) (1st and last sentences)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.                                                                                                     |
| 552(b) .....    | 50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence). |                                                                                                                                                                                                                                           |
| 552(c) .....    | 50 App. 1002(a) (3d sentence).                                    |                                                                                                                                                                                                                                           |
| 552(d) .....    | 50 App. 1002(a) (last sentence).                                  |                                                                                                                                                                                                                                           |
|                 | 50 App. 1014 (as applicable to §1002(a) (last sentence)).         |                                                                                                                                                                                                                                           |
| 552(e) .....    | 50 App. 1006 (2d sentence as applicable to pay and allowances).   | Mar. 7, 1942, ch. 166, §6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, §1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, §1(5)(B), 78 Stat. 437.                                          |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words “pay and allowances, as defined in this chapter,” are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words “on active duty” are substituted for “performing full-time active duty” to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words “or employment” are omitted as inapplicable to members of the uniformed services. The words “entitlement to pay and allowances under subsection (a) of this section” are substituted for “Such entitlement to pay and allowances” for clarity. The words “Notwithstanding the death of a member while in a missing status” are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word “member” is substituted for “person” and the word “Secretary” is substituted for “department” to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words “A member” are substituted for “such person”. The words “under subsection (a) of this section” are inserted for clarity. The words “United States” are substituted for “Government” to conform to the style of title 37.

In subsection (d), the words “A member . . . he . . . in a missing status” are substituted for “Persons”, “such persons”, and the enumerated absent states to

conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words “A member in a missing status” are substituted for “a person missing under the conditions specified in section 2 of this Act” to conform to the definition in revised section 551(2) of this chapter. The words “under subsection (a) of this section” are substituted for “as provided in section 2 of this Act”.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §569(c)(2)(A), substituted “for all purposes” for “for all purposes, even though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made”.

Subsec. (b)(2). Pub. L. 104-106, §569(c)(2)(B), inserted “or under chapter 76 of title 10” before period at end.

Subsec. (e). Pub. L. 104-106, §569(c)(2)(C), inserted “or under chapter 76 of title 10” after “section 555 of this title”.

1991—Subsecs. (b), (c), (e). Pub. L. 102-25 struck out “of this section” after “subsection (a)” wherever appearing.

1973—Subsec. (a). Pub. L. 93-26 provided for full effectiveness for all purposes of promotion of a member while he is in a missing status notwithstanding a determination of the Secretary of death of the member before the making of the promotion.

1972—Subsec. (a). Pub. L. 92-482 designated existing provisions as cl. (1), added cl. (2), and struck out provisions relating to effectiveness of the promotion of a member of the uniformed services while he is in a missing status and the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

1971—Subsec. (a). Pub. L. 92-169 provided that promotion of a member of the uniformed services while he is in a missing status is fully effective for all purposes even though the Secretary concerned determines that the member died before the promotion was made.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93-26 provided that: “For the purposes of chapter 13 [§1301 et seq.] of title 38, United States Code, this Act [amending this section] becomes effective as of November 24, 1971. For all other purposes this Act becomes effective as of February 28, 1961.”

#### EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-169 effective for the purposes of chapter 13 (§1301 et seq.) of Title 38, Veterans’ Benefits, on Nov. 24, 1971, and for all other purposes effective as of Feb. 28, 1961, see section 3 of Pub. L. 92-169, set out as a note under section 1302 of Title 38.

### § 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

(c) The total of all allotments from the pay and allowances of a member in a missing status