

and any related matters, pending), and for expenses of representation of hearing examiners (who shall be presumed irrebuttably to enjoy quasi-judicial immunity in the discharge of their duties under such part or any such statute) in connection with litigation against them arising from such discharge.

(Pub. L. 110-161, div. B, title II, Dec. 26, 2007, 121 Stat. 1912.)

REFERENCES IN TEXT

The 1968 Act, referred to in text, is the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, June 19, 1968, 82 Stat. 197. Section 1205(c) of the Act is classified to section 3796c(c) of this title. Subparts 1 and 2 of such part L means subparts 1 and 2 of part L of title I of the Act which are classified generally to this part and part B (§3796d et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 3711 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of Justice Appropriations Act, 2008, and also as part of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2008, and the Consolidated Appropriations Act, 2008, and not as part of title I of the Omnibus Crime Control and Safe Streets Act of 1968 which comprises this chapter.

PART B—EDUCATIONAL ASSISTANCE TO DEPENDENTS OF CIVILIAN FEDERAL LAW ENFORCEMENT OFFICERS KILLED OR DISABLED IN LINE OF DUTY

§ 3796d. Purposes

The purposes of this part are—

- (1) to enhance the appeal of service in public safety agencies;
- (2) to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death of or total disability of an eligible officer, may not be able to afford it otherwise; and
- (3) to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

(Pub. L. 90-351, title I, §1211, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3114; amended Pub. L. 105-390, §2(2), Nov. 13, 1998, 112 Stat. 3495.)

AMENDMENTS

1998—Par. (1). Pub. L. 105-390 substituted “public safety” for “civilian Federal law enforcement”.

§ 3796d-1. Basic eligibility

(a) Benefits

(1) Subject to the availability of appropriations, the Attorney General shall provide financial assistance to a dependent who attends a program of education and is—

- (A) the child of any eligible public safety officer under part A of this subchapter; or
- (B) the spouse of an officer described in subparagraph (A) at the time of the officer’s death or on the date of a totally and permanently disabling injury.

(2) Except as provided in paragraph (3), financial assistance under this part shall consist of direct payments to an eligible dependent and shall be computed on the basis set forth in section 3532 of title 38.

(3) The financial assistance referred to in paragraph (2) shall be reduced by the sum of—

- (A) the amount of educational assistance benefits from other Federal, State, or local governmental sources to which the eligible dependent would otherwise be entitled to receive; and
- (B) the amount, if any, determined under section 3796d-3(b) of this title.

(b) Duration of benefits

No dependent shall receive assistance under this part for a period in excess of forty-five months of full-time education or training or a proportional period of time for a part-time program.

(c) Age limitation for dependent children

No dependent child shall be eligible for assistance under this part after the child’s 27th birthday absent a finding by the Attorney General of extraordinary circumstances precluding the child from pursuing a program of education.

(Pub. L. 90-351, title I, §1212, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3114; amended Pub. L. 105-390, §2(3), Nov. 13, 1998, 112 Stat. 3495.)

AMENDMENTS

1998—Subsec. (a)(1)(A). Pub. L. 105-390, §2(3)(A), substituted “public safety” for “Federal law enforcement”.

Subsec. (a)(2). Pub. L. 105-390, §2(3)(B), substituted “Except as provided in paragraph (3), financial” for “Financial”.

Subsec. (a)(3). Pub. L. 105-390, §2(3)(C), added par. (3).

§ 3796d-2. Applications; approval

(a) Application

A person seeking assistance under this part shall submit an application to the Attorney General in such form and containing such information as the Attorney General reasonably may require.

(b) Approval

The Attorney General shall approve an application for assistance under this part unless the Attorney General finds that—

- (1) the dependent is not eligible for, is no longer eligible for, or is not entitled to the assistance for which application is made;
- (2) the dependent’s selected educational institution fails to meet a requirement under this part for eligibility;
- (3) the dependent’s enrollment in or pursuit of the educational program selected would fail to meet the criteria established in this part for programs; or
- (4) the dependent already is qualified by previous education or training for the educational, professional, or vocational objective for which the educational program is offered.

(c) Notification

The Attorney General shall notify a dependent applying for assistance under this part of ap-

proval or disapproval of the application in writing.

(Pub. L. 90-351, title I, §1213, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3115.)

§ 3796d-3. Regulations

(a) In general

The Attorney General may promulgate reasonable and necessary regulations to implement this part.

(b) Sliding scale

Notwithstanding section 3796d-2(b) of this title, the Attorney General shall issue regulations regarding the use of a sliding scale based on financial need to ensure that an eligible dependent who is in financial need receives priority in receiving funds under this part.

(Pub. L. 90-351, title I, §1214, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3115; amended Pub. L. 105-390, §2(4), Nov. 13, 1998, 112 Stat. 3495.)

AMENDMENTS

1998—Pub. L. 105-390 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 3796d-4. Discontinuation for unsatisfactory conduct or progress

The Attorney General may discontinue assistance under this part when the Attorney General finds that, according to the regularly prescribed standards and practices of the educational institution, the recipient fails to maintain satisfactory progress as described in section 1091(c) of title 20.

(Pub. L. 90-351, title I, §1215, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3115.)

§ 3796d-5. Special rule

(a) Retroactive eligibility

Notwithstanding any other provision of law, each dependent of a Federal law enforcement officer killed in the line of duty on or after January 1, 1978,¹ and each dependent of a public safety officer killed in the line of duty on or after January 1, 1978, shall be eligible for assistance under this part, subject to the other limitations of this part.

(b) Retroactive assistance

The Attorney General may provide retroactive assistance to dependents eligible under this section for each month in which the dependent pursued a program of education at an eligible educational institution. The Attorney General shall apply the limitations contained in this part to retroactive assistance.

(c) Prospective assistance

The Attorney General may provide prospective assistance to dependents eligible under this section on the same basis as assistance to dependents otherwise eligible. In applying the limitations on assistance under this part, the Attorney General shall include assistance provided retroactively. A dependent eligible under this

section may waive retroactive assistance and apply only for prospective assistance on the same basis as dependents otherwise eligible.

(Pub. L. 90-351, title I, §1216, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3115; amended Pub. L. 105-390, §2(5), Nov. 13, 1998, 112 Stat. 3496; Pub. L. 106-276, §1(a), Oct. 2, 2000, 114 Stat. 812.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-276 substituted “January 1, 1978,” for “May 1, 1992” and “January 1, 1978, shall” for “October 1, 1997, shall”.

1998—Subsec. (a). Pub. L. 105-390 inserted “and each dependent of a public safety officer killed in the line of duty on or after October 1, 1997,” after “1992,”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-276, §1(b), Oct. 2, 2000, 114 Stat. 812, provided that: “The amendments made by subsection (a) [amending this section] shall take effect October 1, 1999.”

§ 3796d-6. Definitions

For purposes of this part:

(1) The term “Attorney General” means the Attorney General of the United States.

(2) The term “program of education” means any curriculum or any combination of unit courses or subjects pursued at an eligible educational institution, which generally is accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. It includes course work for the attainment of more than one objective if in addition to the previous requirements, all the objectives generally are recognized as reasonably related to a single career field.

(3) The term “eligible educational institution” means an institution which—

(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on October 3, 1996; and

(B) is eligible to participate in programs under title IV of such Act [20 U.S.C. 1070 et seq. and 42 U.S.C. 2751 et seq.].

(Pub. L. 90-351, title I, §1217, as added Pub. L. 104-238, §2(2), Oct. 3, 1996, 110 Stat. 3116; amended Pub. L. 105-390, §2(6), Nov. 13, 1998, 112 Stat. 3496.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (3)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

1998—Pars. (2) to (4). Pub. L. 105-390 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: “The term ‘Federal law enforcement officer’ has the same meaning as under part A of this subchapter.”

§ 3796d-7. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary.

¹ So in original.