

“(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any member of the Armed Forces against whom court-martial charges are pending, or in the case of any member who has been tried and convicted by a court-martial for an offense and whose case is being reviewed or appealed, or in the case of any member who has been tried and convicted by a court-martial for an offense and who is serving a sentence (or otherwise satisfying punishment) imposed by such court-martial, until final action (including completion of any punishment imposed pursuant to such court-martial) has been completed with respect to such charges, review, or appeal, or until the sentence has been served (or until any other punishment imposed has been satisfied), as the case may be. The President shall have authority to implement the provisions of this subsection by regulations.

“(3) Notwithstanding the amendment made by paragraph (22) of subsection (a) of this section [amending subsec. (o) of this section], except during the period of a war or a national emergency declared by Congress, the sole surviving son of any family in which the father or one or more sons or daughters thereof were killed in action before January 1, 1960, or died in line of duty before January 1, 1960, while serving in the Armed Forces of the United States, or died subsequent to such date as a result of injuries received or disease incurred before such date during such service shall not be inducted under the Military Selective Service Act [see References in Text note set out under section 451 of this Appendix] unless he volunteers for induction.”

PRIOR OBLIGATED SERVICE

Pub. L. 88-110, § 5, Sept. 3, 1963, 77 Stat. 136, provided that: “This Act [amending subsec. (c)(2) of this section, section 463(a) of this Appendix and sections 270(b) and 511 [now 12103] of Title 10, Armed Forces, and repealing section 1013 of Title 50, War and National Defense] shall not affect any term of obligated service incurred before the effective date of this Act [Sept. 3, 1963]. In addition, the enactment of this Act [Sept. 3, 1963] shall not increase the minimum period of active duty or active duty for training that is required on the day before the effective date of this Act to earn an exemption from training and service under the Universal Military Training and Service Act, as amended (50 U.S.C. App. 451 et seq.), in the case of persons who entered the Armed Forces before the effective date of this Act.”

PROGRAM FOR RETURN OF VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

Proc. No. 4313, Sept. 16, 1974, 39 F.R. 33293, 88 Stat. 2504, set out under section 462 of this Appendix, provided for a program for return of Vietnam era draft evaders and military deserters.

EXECUTIVE ORDER NO. 11803

Ex. Ord. No. 11803, Sept. 16, 1974, 39 F.R. 33297, set out under section 462 of this Appendix, provided for review by Clemency Board of convictions of violations under subsec. (j) of this section.

EX. ORD. NO. 10028. DEFINITION OF NONCOMBATANT SERVICE AND NONCOMBATANT TRAINING

Ex. Ord. No. 10028, Jan. 13, 1949, 14 F.R. 211, provided:

1. The term “noncombatant service” shall mean (a) service in any unit of the armed forces which is unarmed at all times; (b) service in the medical department of any of the armed forces, wherever performed; or (c) any other assignment the primary function of which does not require the use of arms in combat; provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

2. The term “noncombatant training” shall mean any training which is not concerned with the study, use, or handling of arms or weapons.

HARRY S. TRUMAN.

§ 457. Repealed. June 19, 1951, ch. 144, § 1(r), 65 Stat. 86

Section, act June 24, 1948, ch. 625, title I, § 7, 62 Stat. 614, related to active duty for certain members of reserve components.

§ 458. Bounties for induction; substitutes; purchase of release

No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this Act may furnish a substitute for that training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 [section 454 of this Appendix] may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

(June 24, 1948, ch. 625, title I, § 8, 62 Stat. 614; Aug. 10, 1956, ch. 1041, § 22(d), 70A Stat. 630.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

CODIFICATION

Section 8 of act June 24, 1948, 62 Stat. 614, cited as a credit to this section, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, 678, and provisions thereof (as applicable to induction) were restated in this section by section 22(d) of act Aug. 10, 1956. Provisions of such section 8 (less applicability to induction) were restated by first section of act Aug. 10, 1956, as section 514 of Title 10, Armed Forces.

AMENDMENTS

1956—Act Aug. 10, 1956, struck out provisions which prohibited payment of any bounty to induce any person to enlist into Armed Forces. See section 514 of Title 10, Armed Forces.

§ 459. Separation from service

(a) Certificate recording proficiency and merit; physical examination

Any person inducted into the armed forces under this title [sections 451 to 471a of this Appendix] for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 4(b) [section 454(b) of this Appendix] shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. In addition, each such person who is inducted into the armed forces under this title [said sections] for training and service shall be given a physical examination at the beginning of such training and service, and upon the completion of his period of training and service under this title [said sections], each such person shall be given another physical examination and, upon his written request, shall be given a