

“(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

statement of physical condition by the Secretary concerned: *Provided*, That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains: *Provided further*, That, if upon completion of training and service under this title [said sections], such person continues on active duty without an interruption of more than seventy-two hours as a member of the Armed Forces of the United States, a physical examination upon completion of such training and service shall not be required unless it is requested by such person, or the medical authorities of the Armed Force concerned determine that the physical examination is warranted.

(b) Right to vote; manner; poll tax

Any person inducted into the armed forces for training and service under this title [sections 451 to 471a of this Appendix] shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in the State of which he is a resident, whether he is within or outside such State at the time of such election, if under the laws of such State he is otherwise entitled so to vote in such election; but nothing in this subsection shall be construed to require granting to any such person a leave of absence or furlough for longer than one day in order to permit him to vote in person in any such election. No person inducted into, or enlisted in, the armed forces for training and service under this title [said sections] shall, during the period of such service, as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, be required to pay any poll tax or other tax or make any other payment to any State or political subdivision thereof.

(c) Reports on separated personnel

The Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard, shall furnish to the Selective Service System hereafter established a report of separation for each person separated from active duty.

(June 24, 1948, ch. 625, title I, § 9, 62 Stat. 614; Sept. 27, 1950, ch. 1059, § 1(7)–(10), 64 Stat. 1074; June 19, 1951, ch. 144, title I, § 1(s), 65 Stat. 86; July 12, 1955, ch. 327, 69 Stat. 295; July 9, 1956, ch. 523, § 1, 70 Stat. 509; Pub. L. 86–632, § 1, July 12, 1960, 74 Stat. 467; Pub. L. 87–391, Oct. 4, 1961, 75 Stat. 821; Pub. L. 90–491, § 1, Aug. 17, 1968, 82 Stat. 790; Pub. L. 92–129, title I, § 101(a)(23), Sept. 28, 1971, 85 Stat. 351; Pub. L. 93–508, title IV, § 405, Dec. 3, 1974, 88 Stat. 1600; Pub. L. 107–296, title XVII, § 1704(e)(11)(D), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted “Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,” for “Secretaries of Army, Navy, Air Force, or Transportation”.

1974—Subsecs. (b), (c). Pub. L. 93–508, § 405(1), (2), redesignated subsecs. (i) and (j) as (b) and (c), respec-

tively. Former subsecs. (b) and (c), relating to reemployment rights and consideration of training and service in the armed forces as furlough or leave of absence, were struck out. See section 2021 et seq. of Title 38, Veterans’ Benefits.

Subsecs. (d) to (h). Pub. L. 93–508, § 405(1), repealed subsecs. (d) to (h) relating to jurisdiction of district courts to enforce compliance with the reemployment provisions, legal assistance by United States attorneys to claimants of reemployment benefits, reemployment by Federal Government, priority of rights to reemployment, and reemployment benefits to persons enlisting or called to active duty. See section 2021 et seq. of Title 38, Veterans’ Benefits.

Subsecs. (i), (j). Pub. L. 93–508, § 405(2), redesignated subsecs. (i) and (j) as (b) and (c), respectively.

1971—Subsec. (j). Pub. L. 92–129 substituted “or Transportation” for “or Treasury”.

1968—Subsec. (c)(3). Pub. L. 90–491, § 1(1), added par. (3).

Subsec. (d). Pub. L. 90–491, § 1(2), included cases where any private employer fails or refuses to comply with provisions of subsec. (c)(3) of this section.

Subsec. (g)(1). Pub. L. 90–491, § 1(3), substituted “does not exceed five years, provided that the service in excess of four years after August 1, 1961, is at the request and for the convenience of the Federal Government” for “does not exceed four years”.

Subsec. (g)(2). Pub. L. 90–491, § 1(4), designated existing provisions as par. (A) and added par. (B).

1961—Subsec. (g)(1). Pub. L. 87–391 permitted four years service after Aug. 1, 1961, in addition to four years service between June 24, 1948, and Aug. 1, 1961, without loss of reemployment rights.

Subsec. (g)(2). Pub. L. 87–391 permitted four years service after Aug. 1, 1961, in addition to four years service between June 24, 1948, and Aug. 1, 1961, without loss of reemployment rights.

Subsec. (g)(4). Pub. L. 87–391 struck out requirement that persons who are rejected for military service must have requested a leave of absence from their employers for purpose of determining their physical fitness to enter Armed Forces in order to insure reemployment rights.

Subsec. (g)(5), (6). Pub. L. 87–391 added par. (5) and redesignated former par. (5) as (6).

1960—Subsec. (g)(2). Pub. L. 86–632, § 1(1), inserted “and other than for training” after “physical fitness” in parenthetical phrase.

Subsec. (g)(3). Pub. L. 86–632, § 1(2), substituted the existing reemployment provisions for provisions granting a leave of absence to perform training duty or to be examined to determine fitness to enter the armed forces and requiring application for reinstatement to be made within thirty days following release from training duty or rejection for service.

Subsec. (g)(4), (5). Pub. L. 86–632, § 1(3), added pars. (4) and (5).

1956—Subsec. (d). Act July 9, 1956, inserted reference to subsection (g) of this section.

1955—Subsec. (a). Act July 12, 1955, inserted proviso removing requirement for a final physical examination for inductees who continue on active duty in another status in the Armed Forces.

1951—Subsec. (g). Act June 19, 1951, clarified reemployment rights with respect to restoration to a position of like seniority, status, and pay.

1950—Subsec. (g)(1). Act Sept. 27, 1950, § 1(7), struck out “or the Coast Guard (other than a reserve component)” and “or the Coast Guard” after “(other than in a reserve component)”.

Subsec. (g)(2). Act Sept. 27, 1950, § 1(8), struck out “, the Coast Guard” after “United States”.

Subsec. (h). Act Sept. 27, 1950, § 1(9), struck out “, the Coast Guard” after “United States”.

Subsec. (j). Act Sept. 27, 1950, § 1(10), struck out “or” after “Navy” and inserted “, or Treasury” after “Air Force”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as a note under section 3452 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-632, §3, July 12, 1960, 74 Stat. 468, provided that: "This Act [amending this section and section 1013 of Title 50, War and National Defense] shall take effect upon the expiration of sixty days from the date of its enactment [July 12, 1960]."

EFFECTIVE DATE OF 1956 AMENDMENT

Act July 9, 1956, ch. 523, §2, 70 Stat. 509, provided that: "The amendment made by the first section of this Act [amending this section] shall take effect as of June 19, 1951."

§ 460. Selective Service System

(a) Establishment; construction; appointment of Director; termination and reestablishment of Office of Selective Service Records

(1) There is established in the executive branch of the Government an agency to be known as the Selective Service System, and a Director of Selective Service who shall be the head thereof.

(2) The Selective Service System shall include a national headquarters, at least one State headquarters in each State, Territory, and possession of the United States, and in the District of Columbia, and the local boards, appeal boards, and other agencies provided for in subsection (b)(3) of this section.

(3) The Director shall be appointed by the President.

(4) The functions of the Office of Selective Service Records (established by the Act of March 31, 1947 [sections 321 to 329 of this Appendix]) and of the Director of the Office of Selective Service Records are transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking effect of the provisions of this title [sections 451 to 471a of this Appendix]: *Provided*, That, effective upon the termination of this title [said sections] and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is reestablished on the same basis and with the same functions as obtained prior to the effective date of this title [June 24, 1948], (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.

(b) Administrative provisions

The President is authorized to undertake the following:

(1) To prescribe the necessary rules and regulations to carry out the provisions of this title [sections 451 to 471a of this Appendix].

(2) To appoint, upon recommendation of the respective governor or comparable executive official, a State director of the Selective Service System for each headquarters in each State, Territory, and possession of the United States and for the District of Columbia, who shall represent the governor and be in immediate charge of the state headquarters of the Selective Service System: *Provided*, That no State director shall serve concurrently in an elected or appointed position of a State or local government; to employ such number of civilians, and, subject to subsection (e), to order to active duty with their consent and to assign to the Selective Service System such officers of the selective-service section of the State headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several State headquarters of the Selective Service System.

(3) To create and establish within the Selective Service System civilian local boards, civilian appeal boards, and such other civilian agencies, including agencies of appeal, as may be necessary to carry out its functions with respect to the registration, examination, classification, selection, assignment, delivery for induction, and maintenance of records of persons registered under this title [sections 451 to 471a of this Appendix], together with such other duties as may be assigned under this title [said sections]: *Provided*, That no person shall be disqualified from serving as a counselor to registrants, including service as Government appeal agent, because of his membership in a Reserve component of the Armed Forces. He shall create and establish one or more local boards in each county or political subdivision corresponding thereto of each State, territory, and possession of the United States, and in the District of Columbia. The local board and/or its staff shall perform their official duties only within the county or political subdivision corresponding thereto for which the local board is established, or in the case of an intercounty board, within the area for which such board is established, except that the staffs of local boards in more than one county of a State or comparable jurisdiction may be collocated or one staff may serve local boards in more than one county of a State or comparable jurisdiction when such action is approved by the Governor or comparable executive official or officials. Each local board shall consist of three or more members to be appointed by the President from recommendations made by the respective Governors or comparable executive officials. In making such appointments after the date of the enactment of the Act enacting this sentence [Sept. 28, 1971], the President is requested to appoint the membership of each local board so that to the maximum extent