

ored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

“(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

“(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

“(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

“(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

“(b) The purpose of this Act [enacting this section] is to promote the readiness of the armed forces to defend the United States.”

[§ 977. Repealed. Pub. L. 108–375, div. A, title VI, § 651(e)(1), Oct. 28, 2004, 118 Stat. 1972]

Section, added Pub. L. 103–160, div. A, title III, § 351(a), Nov. 30, 1993, 107 Stat. 1626; amended Pub. L. 105–85, div. A, title X, § 1073(a)(16), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 106–65, div. A, title X, § 1066(a)(6), Oct. 5, 1999, 113 Stat. 770, related to prohibition of assignment of active duty members to operation of commissary stores.

A prior section, added Pub. L. 96–342, title X, § 1002(a), Sept. 8, 1980, 94 Stat. 1119; amended Pub. L. 97–22, § 11(a)(1), July 10, 1981, 95 Stat. 137, provided that no one who originally enlisted after Sept. 7, 1980, in a regular armed services component and failed to serve at least 24 months of such enlistment would be eligible for Federal benefits otherwise receivable because of active service under such enlistment, except that such exclusion was not applicable to one discharged under section 1173 of chapter 61 of this title or to one later proved to be suffering from a disability resulting from an injury or disease incurred during enlistment, prior to repeal by Pub. L. 97–306, title IV, § 408(c)(1), Oct. 14, 1982, 96 Stat. 1446. See section 5303A of Title 38, Veterans' Benefits, and provisions set out as notes under that section.

§ 978. Drug and alcohol abuse and dependency: testing of new entrants

(a)(1) The Secretary concerned shall require that, except as provided under paragraph (2), each person applying for an original enlistment or appointment in the armed forces shall be required, before becoming a member of the armed forces, to—

(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

(B) be evaluated for drug and alcohol dependency.

(2) The Secretary concerned may provide that, in lieu of undergoing the testing and evaluation described in paragraph (1) before becoming a member of the armed forces, a member of the armed forces under the Secretary's jurisdiction may be administered that testing and evaluation after the member's initial entry on active

duty. In any such case, the testing and evaluation shall be carried out within 72 hours of the member's initial entry on active duty.

(3) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) within 72 hours of such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers' Training Corps program to undergo such testing and evaluation before such an appointment is executed.

(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not (unless that person subsequently consents to such testing and evaluation)—

(1) be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces; or

(2) if such person is already a member of the armed forces, be retained in the armed forces.

An original appointment of any such person as an officer shall be terminated.

(c)(1) A person determined, as the result of testing conducted under subsection (a)(1), to be dependent on drugs or alcohol shall be denied entrance into the armed forces.

(2) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(2), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

(3) A person who is denied entrance into the armed forces under paragraph (1), or whose enlistment or appointment is voided under paragraph (2), shall be referred to a civilian treatment facility.

(4) The Secretary concerned may place on excess leave any member of the armed forces whose test results under subsection (a)(2) are positive for drug or alcohol use. The Secretary may continue such member's status on excess leave pending disposition of the member's case and processing for administrative separation.

(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Homeland Security. Those regulations shall apply uniformly throughout the armed forces.

(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).

(Added Pub. L. 97–295, § 1(14)(A), Oct. 12, 1982, 96 Stat. 1289; amended Pub. L. 100–180, div. A, title V, § 513(a)(1), Dec. 4, 1987, 101 Stat. 1091; Pub. L. 100–456, div. A, title V, § 521(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 101–189, div. A, title V, § 513(a)–(c), Nov. 29, 1989, 103 Stat. 1440; Pub. L. 101–510, div. A, title XIV, § 1484(k)(4), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 103–160, div. A, title V, § 572, Nov. 30, 1993, 107 Stat. 1673; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
978	10:1071 (note).	Sept. 28, 1971, Pub. L. 92-129, §501(a)(2), (b), 85 Stat. 361.

The word “regulations” is added for consistency. The word “persons” is omitted as surplus. The word “person” is substituted for “individuals” for consistency. The text of subsection (b) is omitted as executed.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1993—Subsec. (a)(3). Pub. L. 103-160 substituted “within 72 hours of such appointment” for “during the physical examination given the applicant before such appointment” and “before such an appointment is executed” for “during the precommissioning physical examination given such person”.

1990—Subsec. (c)(3). Pub. L. 101-510 struck out “a” before “whose enlistment”.

1989—Subsec. (a)(1). Pub. L. 101-189, §513(a)(2), added par. (1) and struck out former par. (1) which read as follows: “Except as provided in paragraph (2), the Secretary concerned shall require each member of the armed forces under the Secretary’s jurisdiction, within 72 hours after the member’s initial entry on active duty after enlistment or appointment, to—

“(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

“(B) be evaluated for drug and alcohol dependency.”

Subsec. (a)(2), (3). Pub. L. 101-189, §513(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 101-189, §513(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A person who refuses to consent to testing and evaluation required by subsection (a) may not be retained in the armed forces, and any original appointment of such person as an officer shall be terminated, unless that person consents to such testing and evaluation.”

Subsec. (c)(1). Pub. L. 101-189, §513(b)(2)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (c)(2). Pub. L. 101-189, §513(b)(2)(A), (C), redesignated par. (1) as (2) and substituted “subsection (a)(2)” for “subsection (a)(1)(B)”. Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 101-189, §513(b)(2)(A), (D), redesignated par. (2) as (3), inserted “who is denied entrance into the armed forces under paragraph (1), or a” after “A person”, and substituted “paragraph (2),” for “paragraph (1)”.

Subsec. (c)(4). Pub. L. 101-189, §513(c), added par. (4).

1988—Pub. L. 100-456 substituted “Drug and alcohol abuse and dependency: testing of new entrants” for “Mandatory testing for drug, chemical, and alcohol abuse” in section catchline, and amended text generally. Prior to amendment, text read as follows:

“(a) Before a person becomes a member of the armed forces, such person shall be required to undergo testing for drug, chemical, and alcohol use and dependency.

“(b) A person who refuses to consent to testing required by subsection (a) may not be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces unless that person consents to such testing.

“(c) A person determined, as the result of testing conducted under subsection (a), to be dependent on drugs, chemicals, or alcohol shall be—

“(1) denied entrance into the armed forces; and

“(2) referred to a civilian treatment facility.

“(d) The testing required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces.”

1987—Pub. L. 100-180 substituted “Mandatory testing for drug, chemical, and alcohol abuse” for “Denial of entrance into the armed forces of persons dependent on drugs or alcohol” in section catchline, and amended text generally, revising and restating as subsecs. (a) to (d) provisions formerly contained in subsecs. (a) and (b).

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 this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title V, §513(d), Nov. 29, 1989, 103 Stat. 1441, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect as of October 1, 1989.”

REGULATIONS; IMPLEMENTATION OF PROGRAM

Pub. L. 100-456, div. A, title V, §521(b), (c), Sept. 29, 1988, 102 Stat. 1973, provided that:

“(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 60 days after the date of the enactment of this Act [Sept. 29, 1988].

“(c) EFFECTIVE DATE.—The testing and evaluation program prescribed by that section shall be implemented not later than October 1, 1989.”

IMPLEMENTATION

Pub. L. 100-180, div. A, title V, §513(b), Dec. 4, 1987, 101 Stat. 1091, as amended by Pub. L. 100-456, div. A, title V, §521(d), Sept. 29, 1988, 102 Stat. 1973, provided that:

“(1) The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 45 days after the date of the enactment of this Act [Dec. 4, 1987].

“(2) [Repealed. Pub. L. 100-456, div. A, title V, §521(d), Sept. 29, 1988, 102 Stat. 1973].”

§ 979. Prohibition on loan and grant assistance to persons convicted of certain crimes

Funds appropriated to the Department of Defense may not be used to provide a loan, a guarantee of a loan, or a grant to any person who has been convicted by a court of general jurisdiction of any crime which involves the use of (or assisting others in the use of) force, trespass, or the seizure of property under the control of an institution of higher education to prevent officials or students of the institution from engaging in their duties or pursuing their studies.

(Added Pub. L. 98-525, title XIV, §1401(c)(1), Oct. 19, 1984, 98 Stat. 2615.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 98-473, title I, §101(h) [title VIII, §8027], Oct. 12, 1984, 98 Stat. 1904, 1928.

Pub. L. 98-212, title VII, §732, Dec. 8, 1983, 97 Stat. 1444.

Pub. L. 97-377, title I, §101(c) [title VII, §735], Dec. 21, 1982, 96 Stat. 1833, 1856.

Pub. L. 97-114, title VII, §736, Dec. 29, 1981, 95 Stat. 1585.

Pub. L. 96-527, title VII, §737, Dec. 15, 1980, 94 Stat. 3087.

Pub. L. 96-154, title VII, §739, Dec. 21, 1979, 93 Stat. 1159.

Pub. L. 95-457, title VIII, §839, Oct. 13, 1978, 92 Stat. 1250.