

§ 1129. Purple Heart: members killed or wounded in action by friendly fire

(a) For purposes of the award of the Purple Heart, the Secretary concerned shall treat a member of the armed forces described in subsection (b) in the same manner as a member who is killed or wounded in action as the result of an act of an enemy of the United States.

(b) A member described in this subsection is a member who is killed or wounded in action by weapon fire while directly engaged in armed conflict, other than as the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of willful misconduct of the member.

(c) This section applies to members of the armed forces who are killed or wounded on or after December 7, 1941. In the case of a member killed or wounded as described in subsection (b) on or after December 7, 1941, and before November 30, 1993, the Secretary concerned shall award the Purple Heart under subsection (a) in each case which is known to the Secretary before such date or for which an application is made to the Secretary in such manner as the Secretary requires.

(Added Pub. L. 103-160, div. A, title XI, §1141(a), Nov. 30, 1993, 107 Stat. 1756; amended Pub. L. 105-85, div. A, title X, §1073(a)(18), Nov. 18, 1997, 111 Stat. 1901.)

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-85 substituted “November 30, 1993,” for “the date of the enactment of this section,” and “before such date or” for “before the date of the enactment of this section or”.

AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962

Pub. L. 104-106, div. A, title V, §521, Feb. 10, 1996, 110 Stat. 309, as amended by Pub. L. 108-136, div. A, title V, §544, Nov. 24, 2003, 117 Stat. 1478, provided that:

“(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

“(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act [Feb. 10, 1996] for the award of the Purple Heart to persons wounded on or after April 25, 1962.

“(c) ELIGIBLE FORMER PRISONERS OF WAR.—A person shall be considered to be a former prisoner of war for purposes of this section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

“(d) PROCEDURES FOR AWARD.—In determining whether a former prisoner of war who submits an application for the award of the Purple Heart under subsection (a) is eligible for that award, the Secretary concerned shall apply the following procedures:

“(1) Failure of the applicant to provide any documentation as required by the Secretary shall not in itself disqualify the application from being considered.

“(2) In evaluating the application, the Secretary shall consider (A) historical information as to the prison camp or other circumstances in which the ap-

plicant was held captive, and (B) the length of time that the applicant was held captive.

“(3) To the extent that information is readily available, the Secretary shall assist the applicant in obtaining information or identifying the sources of information referred to in paragraph (2).

“(4) The Secretary shall review a completed application under this section based upon the totality of the information presented, taking into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application.”

§ 1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review

(a) Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration.

(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination. If the determination includes a favorable recommendation for the award of the Medal of Honor, the Secretary of Defense, instead of the Secretary concerned, shall make the submission under this subsection.

(c) Determinations under this section regarding the award or presentation of a decoration shall be made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

(d) In this section:

(1) The term “Member of Congress” means—
(A) a Senator; or
(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(2) The term “decoration” means any decoration or award that may be presented or awarded to a member or unit of the armed forces.

(Added Pub. L. 104-106, div. A, title V, §526(a), Feb. 10, 1996, 110 Stat. 313; amended Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1031(a)(10), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 112-81, div. A, title V, §524, Dec. 31, 2011, 125 Stat. 1401.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81 inserted at end “If the determination includes a favorable recommendation for the award of the Medal of Honor, the Secretary

of Defense, instead of the Secretary concerned, shall make the submission under this subsection.”

2003—Pub. L. 108-136, §1031(a)(10)(B), struck out “and recommendation” after “review” in section catchline.

Subsec. (a). Pub. L. 108-136, §1031(a)(10)(A)(i), struck out “and the other determinations necessary to comply with subsection (b)” after “of the decoration”.

Subsec. (b). Pub. L. 108-136, §1031(a)(10)(A)(ii), substituted “to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.” for “to the requesting member of Congress notice in writing of one of the following:

“(1) The award or presentation of the decoration does not warrant approval on the merits.

“(2) The award or presentation of the decoration warrants approval and a waiver by law of time restrictions prescribed by law is recommended.

“(3) The award or presentation of the decoration warrants approval on the merits and has been approved as an exception to policy.

“(4) The award or presentation of the decoration warrants approval on the merits, but a waiver of the time restrictions prescribed by law or policy is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary.”

1999—Subsec. (b). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL FOR PARTICIPATION IN OPERATION JOINT ENDEAVOR OR OPERATION JOINT GUARD

Pub. L. 105-85, div. A, title V, §572, Nov. 18, 1997, 111 Stat. 1756, provided that:

“(a) **INCLUSION OF OPERATIONS.**—For the purpose of determining the eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the Secretary of Defense shall designate participation in Operation Joint Endeavor or Operation Joint Guard in the Republic of Bosnia and Herzegovina, and in such other areas in the region as the Secretary considers appropriate, as service in an area that meets the general requirements for the award of that medal.

“(b) **INDIVIDUAL DETERMINATION.**—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who participated in Operation Joint Endeavor or Operation Joint Guard meet the individual service requirements for award of the Armed Forces Expeditionary Medal as established in applicable regulations. A member or former member shall be considered to have participated in Operation Joint Endeavor or Operation Joint Guard if the member—

“(1) was deployed in the Republic of Bosnia and Herzegovina, or in such other area in the region as the Secretary of Defense considers appropriate, in direct support of one or both of the operations;

“(2) served on board a United States naval vessel operating in the Adriatic Sea in direct support of one or both of the operations; or

“(3) operated in airspace above the Republic of Bosnia and Herzegovina, or in such other area in the region as the Secretary of Defense considers appropriate, while the operations were in effect.

“(c) **OPERATIONS DEFINED.**—For purposes of this section:

“(1) The term ‘Operation Joint Endeavor’ means operations of the United States Armed Forces conducted in the Republic of Bosnia and Herzegovina during the period beginning on November 20, 1995, and ending on December 20, 1996, to assist in implementing the General Framework Agreement and Associated Annexes, initiated on November 21, 1995, in Dayton, Ohio.

“(2) The term ‘Operation Joint Guard’ means operations of the United States Armed Forces conducted in the Republic of Bosnia and Herzegovina as a suc-

cessor to Operation Joint Endeavor during the period beginning on December 20, 1996, and ending on such date as the Secretary of Defense may designate.”

ELIGIBILITY OF CERTAIN WORLD WAR II MILITARY ORGANIZATIONS FOR AWARD OF UNIT DECORATIONS

Pub. L. 105-85, div. A, title V, §576, Nov. 18, 1997, 111 Stat. 1758, authorized award of a unit decoration for any unit or other organization of the Armed Forces that had supported the planning or execution of combat operations during World War II primarily through unit personnel who had been attached to other units of the Armed Forces or of other allied armed forces, and that had not been otherwise eligible for award of the decoration by reason of not usually having been deployed as a unit in support of such operations, and required that any recommendation for such an award be submitted to the Secretary concerned not later than two years after Nov. 18, 1997.

AUTHORITY TO AWARD DECORATIONS RECOGNIZING ACTS OF VALOR PERFORMED IN COMBAT DURING THE VIETNAM CONFLICT

Pub. L. 104-106, div. A, title V, §522, Feb. 10, 1996, 110 Stat. 310, provided that:

“(a) **FINDINGS.**—Congress makes the following findings:

“(1) The Ia Drang Valley (Pleiku) campaign, carried out by the Armed Forces in the Ia Drang Valley of Vietnam from October 23, 1965, to November 26, 1965, is illustrative of the many battles during the Vietnam conflict which pitted forces of the United States against North Vietnamese Army regulars and Viet Cong in vicious fighting.

“(2) Accounts of those battles that have been published since the end of that conflict authoritatively document numerous and repeated acts of extraordinary heroism, sacrifice, and bravery on the part of members of the Armed Forces, many of which have never been officially recognized.

“(3) In some of those battles, United States military units suffered substantial losses, with some units sustaining casualties in excess of 50 percent.

“(4) The incidence of heavy casualties throughout the Vietnam conflict inhibited the timely collection of comprehensive and detailed information to support recommendations for awards recognizing acts of heroism, sacrifice, and bravery.

“(5) Subsequent requests to the Secretaries of the military departments for review of award recommendations for such acts have been denied because of restrictions in law and regulations that require timely filing of such recommendations and documented justification.

“(6) Acts of heroism, sacrifice, and bravery performed in combat by members of the Armed Forces deserve appropriate and timely recognition by the people of the United States.

“(7) It is appropriate to recognize acts of heroism, sacrifice, or bravery that are belatedly, but properly, documented by persons who witnessed those acts.

“(b) **WAIVER OF TIME LIMITATIONS FOR RECOMMENDATIONS FOR AWARDS.**—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award to any person for actions by that person in the Southeast Asia theater of operations while serving on active duty during the Vietnam era. The waiver of time limitations under this paragraph applies only in the case of awards for acts of valor for which a request for consideration is submitted under subsection (c).

“(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the Vietnam era and before the date of the enactment of this Act [Feb. 10, 1996], was authorized by law or under regulations of the Department of Defense or the military department concerned to be awarded to members of the Armed Forces for acts of valor.

“(c) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (b) that are received by the Secretary during the one-year period beginning on the date of enactment of this Act [Feb. 10, 1996].

“(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

“(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for award of decorations to members of the Armed Forces under the Secretary’s jurisdiction for valorous acts.

“(d) REPORT.—(1) Upon completing the review of each such request under subsection (c), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

“(2) The report shall include, with respect to each request for consideration received, the following information:

“(A) A summary of the request for consideration.

“(B) The findings resulting from the review.

“(C) The final action taken on the request for consideration.

“(e) DEFINITION.—For purposes of this section:

“(1) The term ‘Vietnam era’ has the meaning given that term in section 101 of title 38, United States Code.

“(2) The term ‘active duty’ has the meaning given that term in section 101 of title 10, United States Code.”

MILITARY INTELLIGENCE PERSONNEL PREVENTED BY SECRECY FROM BEING CONSIDERED FOR DECORATIONS AND AWARDS

Pub. L. 104-106, div. A, title V, § 523, Feb. 10, 1996, 110 Stat. 311, as amended by Pub. L. 105-85, div. A, title V, § 575, Nov. 18, 1997, 111 Stat. 1758, provided that:

“(a) WAIVER ON RESTRICTIONS OF AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award, to any person for an act, achievement, or service that the person performed in carrying out military intelligence duties during the period beginning on January 1, 1940, and ending on December 31, 1990.

“(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the period described in paragraph (1) and before the date of the enactment of this Act [Feb. 10, 1996], was authorized by law or under the regulations of the Department of Defense or the military department concerned to be awarded to a person for an act, achievement, or service performed by that person while serving on active duty.

“(b) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (a) that is received by the Secretary during the period beginning on February 10, 1996, and ending on February 9, 1998.

“(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

“(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for awarding decorations to members of the Armed Forces under the Secretary’s jurisdiction for acts, achievements, or service.

“(c) REPORT.—(1) Upon completing the review of each such request under subsection (b), the Secretary shall

submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

“(2) The report shall include, with respect to each request for consideration reviewed, the following information:

“(A) A summary of the request for consideration.

“(B) The findings resulting from the review.

“(C) The final action taken on the request for consideration.

“(D) Administrative or legislative recommendations to improve award procedures with respect to military intelligence personnel.

“(d) DEFINITION.—For purposes of this section, the term ‘active duty’ has the meaning given such term in section 101 of title 10, United States Code.”

ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL BASED UPON SERVICE IN EL SALVADOR

Section 525 of Pub. L. 104-106 provided that:

“(a) IN GENERAL.—For the purpose of determining eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the country of El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992, shall be treated as having been designated as an area and a period of time in which members of the Armed Forces participated in operations in significant numbers and otherwise met the general requirements for the award of that medal.

“(b) INDIVIDUAL DETERMINATION.—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who served in El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992 meet the individual service requirements for award of the Armed Forces Expeditionary Medal as established in applicable regulations. Such determinations shall be made as expeditiously as possible after the date of the enactment of this Act [Feb. 10, 1996].”

§ 1131. Purple Heart: limitation to members of the armed forces

The decoration known as the Purple Heart (authorized to be awarded pursuant to Executive Order 11016) may only be awarded to a person who is a member of the armed forces at the time the person is killed or wounded under circumstances otherwise qualifying that person for award of the Purple Heart.

(Added Pub. L. 105-85, div. A, title V, § 571(a)(1), Nov. 18, 1997, 111 Stat. 1756.)

REFERENCES IN TEXT

Executive Order 11016, referred to in text, is not classified to the Code.

EFFECTIVE DATE

Pub. L. 105-85, div. A, title V, § 571(b), Nov. 18, 1997, 111 Stat. 1756, provided that: “Section 1131 of title 10, United States Code, as added by subsection (a), shall apply with respect to persons who are killed or wounded after the end of the 180-day period beginning on the date of the enactment of this Act [Nov. 18, 1997].”

§ 1132. Presentation of decorations: prohibition on entering correctional facilities for presentation to prisoners convicted of serious violent felonies

(a) PROHIBITION.—A member of the armed forces may not enter a Federal, State, local, or foreign correctional facility to present a decoration to a person who is incarcerated due to conviction of a serious violent felony.