

fare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(A)(i), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Higher Education Act of 1965, referred to in subsec. (e)(4), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20 and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

#### TRANSFER OF FUNCTIONS FOR TROOPS-TO-TEACHERS PROGRAM

Pub. L. 112-239, div. A, title V, §541(a), Jan. 2, 2013, 126 Stat. 1728, provided that:

“(1) TRANSFER.—The responsibility and authority for operation and administration of the Troops-to-Teachers Program in chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) is transferred from the Secretary of Education to the Secretary of Defense.

“(2) MEMORANDUM OF AGREEMENT.—In connection with the transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program from the Secretary of Education to the Secretary of Defense under paragraph (1), the Secretaries shall enter into a memorandum of agreement pursuant to which the Secretary of Education will undertake the following:

“(A) Disseminate information about the Troops-to-Teachers Program to eligible schools (as defined in subsection (a) of section 1154 of title 10, United States Code, as added by subsection (b)).

“(B) Advise the Department of Defense on how to prepare eligible members of the Armed Forces described in subsection (d) of such section 1154 to become participants in the Program, to meet the requirements necessary to become a teacher in a school described in subsection (b)(2) of such section 1154, and to find post-service employment in an eligible school.

“(C) Advise the Department of Defense on how to identify teacher preparation programs for participants in the Program.

“(D) Inform the Department of Defense of academic subject areas with critical teacher shortages.

“(E) Identify geographic areas with critical teacher shortages, especially in high-need schools (as defined in subsection (a) of such section 1154).

“(3) EFFECTIVE DATE.—The transfer of responsibility and authority for operation and administration of the Troops-to-Teachers Program under paragraph (1) shall take effect—

“(A) on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Jan. 2, 2013]; or

“(B) on such earlier date as the Secretary of Education and the Secretary of Defense may jointly provide.”

#### CHAPTER 59—SEPARATION

Sec.  
1161. Commissioned officers: limitations on dismissal.

Sec.  
[1162, 1163. Repealed.]  
1164. Warrant officers: separation for age.  
1165. Regular warrant officers: separation during three-year probationary period.  
1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance.  
1167. Members under confinement by sentence of court-martial: separation after six months confinement.  
1168. Discharge or release from active duty: limitations.  
1169. Regular enlisted members: limitations on discharge.  
1170. Regular enlisted members: minority discharge.  
1171. Regular enlisted members: early discharge.  
1172. Enlisted members: during war or emergency; discharge.  
1173. Enlisted members: discharge for hardship.  
1174. Separation pay upon involuntary discharge or release from active duty.  
1174a. Special separation benefits programs.  
1175. Voluntary separation incentive.  
1175a. Voluntary separation pay and benefits.  
1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.  
1177. Members diagnosed with or reasonably ascertaining post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation.  
1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program.

#### AMENDMENTS

2009—Pub. L. 111-84, div. A, title V, §512(a)(2), Oct. 28, 2009, 123 Stat. 2281, added item 1177.

2006—Pub. L. 109-163, div. A, title VI, §643(a)(2), Jan. 6, 2006, 119 Stat. 3309, added item 1175a.

2000—Pub. L. 106-398, §1 [[div. A], title VII, §751(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-193, added item 1178.

1996—Pub. L. 104-134, title II, §2707(a)(2), Apr. 26, 1996, 110 Stat. 1321-330, struck out item 1177 “Members infected with HIV-1 virus: mandatory discharge or retirement”.

Pub. L. 104-106, div. A, title V, §§563(a)(1)(B), 567(a)(2), Feb. 10, 1996, 110 Stat. 325, 329, added item 1167 and substituted “Members infected with HIV-1 virus: mandatory discharge or retirement” for “Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling” in item 1177.

1994—Pub. L. 103-337, div. A, title V, §560(a)(2), title XVI, §1671(b)(10), Oct. 5, 1994, 108 Stat. 2778, 3013, struck out items 1162 “Reserves: discharge” and 1163 “Reserve components: members; limitations on separation” and added item 1177.

1992—Pub. L. 102-484, div. A, title V, §541(b), Oct. 23, 1992, 106 Stat. 2413, added item 1176.

1991—Pub. L. 102-190, div. A, title VI, §§661(a)(2), 662(a)(2), Dec. 5, 1991, 105 Stat. 1395, 1398, added items 1174a and 1175.

1980—Pub. L. 96-513, title V, §501(15), Dec. 12, 1980, 94 Stat. 2908, struck out item 1167 “Regular warrant officers: severance pay” and added item 1174.

1973—Pub. L. 93-64, title I, §102, July 9, 1973, 87 Stat. 147, added item 1173.

1968—Pub. L. 90-235, §3(a)(1)(B), Jan. 2, 1968, 81 Stat. 757, added items 1169 to 1172.

1962—Pub. L. 87-651, title I, §106(c), Sept. 7, 1962, 76 Stat. 508, added item 1168.

#### § 1161. Commissioned officers: limitations on dismissal

(a) No commissioned officer may be dismissed from any armed force except—

(1) by sentence of a general court-martial;

(2) in commutation of a sentence of a general court-martial; or

(3) in time of war, by order of the President.

(b) The President may drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, (2) who may be separated under section 1167 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 89; Pub. L. 104-106, div. A, title V, §563(b)(1), Feb. 10, 1996, 110 Stat. 325; Pub. L. 104-201, div. A, title X, §1074(a)(5), Sept. 23, 1996, 110 Stat. 2658.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1161(a) .....	50:739 (words before semicolon, less applicability to Navy and Marine Corps warrant officers).	May 5, 1950, ch. 169, §10 (less applicability to Navy and Marine Corps warrant officers), 64 Stat. 146.
1161(b) .....	50:739 (less words before semicolon, less applicability to Navy and Marine Corps warrant officers).	

In subsections (a) and (b), the word “commissioned” is inserted since, for the Army and the Air Force, the term “officer” is intended to have the same meaning in 50:739 as it has in the Uniform Code of Military Justice (article 4). For Navy warrant officers see section 6408 of this title.

In subsection (b), the words “from his place of duty” are omitted as surplusage. The words “at least” are substituted for the words “or more”. The words “by a court other than a court-martial or other military court” are substituted for the words “by the civil authorities”.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-201 substituted “section 1167” for “section 1178” in par. (2).

Pub. L. 104-106 struck out “or” after “three months,” added par. (2), and redesignated former par. (2) as (3).

#### RESTORATION OF RETIRED PAY TO OFFICERS DROPPED FROM ROLLS AFTER DECEMBER 31, 1954 AND BEFORE AUGUST 25, 1958

Pub. L. 85-754, Aug. 25, 1958, 72 Stat. 847, provided: “That notwithstanding any other provisions of law, a former retired officer dropped from the rolls under section 10 of the Act of May 5, 1950, ch. 169 (64 Stat. 146), or section 1161 of title 10, United States Code, after December 31, 1954, and before the date of enactment of this Act [Aug. 25, 1958] shall, for the purposes of entitlement to retired or retirement pay after the date of enactment of this Act, be treated as if he had not been dropped from the rolls. Such an officer is also entitled to retroactive retired or retirement pay for the period beginning on the date he was dropped from the rolls and ending on the date of enactment of this Act, as if he had not been dropped from the rolls.

“SEC. 2. A former retired officer covered by this Act is subject to the penal, prohibitory, and restrictive provisions of law applicable to the pay and civil employment of retired officers of the Armed Forces and is not entitled to any other benefit provided by law or regulation for retired officers of the Armed Forces. After the

date of enactment of this Act [Aug. 25, 1958], such a former retired officer may, in the discretion of the President, have his entitlement to retired or retirement pay under this Act terminated for any reason for which any retired officer may be dismissed from, or dropped from the rolls of, any Armed Force.

“SEC. 3. Appropriations available for the payment of retired pay to members of the Armed Forces are available for payments under this Act.”

#### [§§ 1162, 1163. Repealed. Pub. L. 103-337, div. A, title XVI, §1662(i)(2), Oct. 5, 1994, 108 Stat. 2998]

Section 1162, acts Aug. 10, 1956, ch. 1041, 70A Stat. 89; Sept. 2, 1958, Pub. L. 85-861, §1(27), 72 Stat. 1450, related to discharge of Reserves. See sections 12681 and 12682 of this title.

Section 1163, acts Aug. 10, 1956, ch. 1041, 70A Stat. 89; Sept. 7, 1962, Pub. L. 87-651, title I, §106(a), 76 Stat. 508; Dec. 30, 1987, Pub. L. 100-224, §4, 101 Stat. 1538, related to limitations on separation of Reserve members from their reserve components. See sections 12683 to 12686 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### § 1164. Warrant officers: separation for age

(a) Unless retired or separated on or before the expiration of that period, each warrant officer shall be retired or separated from his armed force not later than 60 days after the date when he becomes 62 years of age, except as provided by section 8301 of title 5.

(b) The Secretary concerned may defer, for not more than four months, the separation under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 90; Pub. L. 89-718, §3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90-130, §1(5), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96-513, title V, §511(41), Dec. 12, 1980, 94 Stat. 2923; Pub. L. 97-295, §1(16), Oct. 12, 1982, 96 Stat. 1290.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1164(a) .....	10:600/(c) (as applicable to men). 10:600r(c) (as applicable to 10:600/(c)). 34:430(c) (as applicable to men). 34:430c (as applicable to 34:430(c)).	May 29, 1954, ch. 249, §§14(c), (e) (as applicable to (c)), 21(c) (as applicable to §14(c)), 68 Stat. 163, 168.
1164(b) .....	10:600/(c) (less applicability to men). 34:430(c) (less applicability to men).	
1164(c) .....	10:600/(e) (as applicable to 10:600/(c)). 34:430(e) (as applicable to 34:430(c)).	

In subsections (a) and (b), the words “Except as provided in clause (3) of subsection (b) of this section and in subsection (g) of this section” are omitted as covered by section 46 of the bill and section 14(g) of the source statute. The words “Unless retired or separated on or