

§ 12682. Reserves: discharge upon becoming or ordained minister of religion

Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2997.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1162(b) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

§ 12683. Reserve officers: limitation on involuntary separation

(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

(2) by the approved sentence of a court-martial.

(b) Subsection (a) does not apply to any of the following:

(1) A separation under section 12684, 14901, or 14907 of this title.

(2) A dismissal under section 1161(a) of this title.

(3) A transfer under section 12213, 12214, 14514, or 14515 of this title.

(4) A separation of an officer who is in an inactive status in the Standby Reserve and who is not qualified for transfer to the Retired Reserve or is qualified for transfer to the Retired Reserve and does not apply for such a transfer.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2997; amended Pub. L. 105-85, div. A, title V, § 516, Nov. 18, 1997, 111 Stat. 1733; Pub. L. 105-261, div. A, title X, § 1069(a)(8), Oct. 17, 1998, 112 Stat. 2136.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(a) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105-261 substituted a period for “; or” at end.

1997—Subsec. (b). Pub. L. 105-85, § 516(a)(1), substituted “apply to any of the following:” for “apply—” in introductory provisions.

Subsec. (b)(1). Pub. L. 105-85, § 516(b)(1), (2), substituted “A” for “to a” and “title.” for “title;”.

Subsec. (b)(2). Pub. L. 105-85, § 516(b)(3), which directed substitution of a period for “; and” at end of par. (2), could not be executed because “; and” did not appear in par. (2).

Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”.

Subsec. (b)(3). Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”.

Subsec. (b)(4). Pub. L. 105-85, § 516(a)(2), added par. (4).

§ 12684. Reserves: separation for absence without authority or sentence to imprisonment

The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

(1) who has been absent without authority for at least three months;

(2) who may be separated under section 12687 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.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-106, div. A, title V, § 563(b)(2), Feb. 10, 1996, 110 Stat. 325.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(b) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

AMENDMENTS

1996—Pub. L. 104-106 struck out “or” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

§ 12685. Reserves separated for cause: character of discharge

A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2998.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(c) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

§ 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

(a) **LIMITATION.**—Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system (other than the retirement system under chapter 1223 of this title), may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.

(b) **WAIVER.**—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days