

cess of 60 days and who is furnished clothing without charge by the institution, the amount of any annual clothing allowance payable to the veteran under section 1162 of this title shall be reduced by an amount equal to $\frac{1}{365}$ of the amount of the allowance otherwise payable under that section for each day on which the veteran was so incarcerated during the 12-month period preceding the date on which payment of the allowance would be due. This section shall be carried out under regulations prescribed by the Secretary.

(Added Pub. L. 104-275, title V, §502(a), Oct. 9, 1996, 110 Stat. 3341; amended Pub. L. 109-461, title X, §1002(g), Dec. 22, 2006, 120 Stat. 3465.)

AMENDMENTS

2006—Pub. L. 109-461 substituted “local, or other penal institution or correctional facility” for “or local penal institution”.

§ 5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran or such dependent is a fugitive felon.

(b) For purposes of this section:

(1) The term “fugitive felon” means a person who is a fugitive by reason of—

(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

(B) violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

(2) The term “felony” includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

(3) The term “dependent” means a spouse, surviving spouse, child, or dependent parent of a veteran.

(c) A benefit specified in this subsection is a benefit under any of the following:

- (1) Chapter 11 of this title.
- (2) Chapter 13 of this title.
- (3) Chapter 15 of this title.
- (4) Chapter 17 of this title.
- (5) Chapter 19 of this title.
- (6) Chapter 30, 31, 32, 34, or 35 of this title.
- (7) Chapter 37 of this title.

(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a person who is eligible for a benefit specified in subsection (c) if such official—

(A) provides to the Secretary such information as the Secretary may require to fully identify the person;

(B) identifies the person as being a fugitive felon; and

(C) certifies to the Secretary that apprehending such person is within the official duties of such official.

(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).

(Added Pub. L. 107-103, title V, §505(a)(1), Dec. 27, 2001, 115 Stat. 995.)

§ 5314. Indebtedness offsets

(a) Subject to subsections (b) and (d) of this section and section 3485(e) of this title, the Secretary shall (unless the Secretary waives recovery under section 5302 of this title) deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by the Secretary from future payments made to such person under any law administered by the Secretary.

(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Secretary—

(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 5302 of this title;

(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Secretary's ability to recover the full amount of such indebtedness through deductions from such payments; and

(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

(c) Notwithstanding any other provision of this title or of any other law, the authority of the Secretary to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

(d) The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 96-466, title VI, §605(a)(1), Oct. 17, 1980, 94 Stat. 2209, §3114; amended Pub. L. 102-16, §6(b)(3), Mar. 22, 1991, 105 Stat. 51; renumbered §5314 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406.)

AMENDMENTS

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3114 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3485(e)” for “1685(e)”.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans' Administration” in two places.

Pub. L. 102-40, §402(d)(1), substituted “5302” for “3102”.

Pub. L. 102-16 inserted “and section 1685(e) of this title” after “Subject to subsections (b) and (d) of this section”.

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in introductory provisions and “Secretary's” for “Administrator's” in par. (2).

Pub. L. 102-40, §402(d)(1), substituted “5302” for “3102” in par. (1).

Subsecs. (c), (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

EFFECTIVE DATE

Pub. L. 96-466, title VIII, §802(f), Oct. 17, 1980, 94 Stat. 2218, provided that:

“(1) Except as provided in paragraph (2), the amendments made by title VI [see Tables for classification] shall become effective on October 1, 1980.

“(2) The amendments made by sections 603 [amending sections 1677 and 1798 [now 3698] of this title] and 604 [amending section 1786 [now 3686] of this title] shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on September 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) [now 3452(b)] of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.”

RULES AND REGULATIONS

Pub. L. 96-466, title VI, §605(b), Oct. 17, 1980, 94 Stat. 2211, provided that: “The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall, not later than January 1, 1981, prescribe the regulations required to be prescribed under sections 3114 and 3115 [now 5314 and 5315] of title 38, United States Code, as added by subsection (a).”

§ 5315. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

(a) Notwithstanding any other provision of this title or of any other law and subject to sections 3485(e) and 5302 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Secretary shall prescribe, on any amount owed to the United States—

(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Secretary other than a loan, loan-guaranty, or loan-insurance program;

(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Secretary under this title.

(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Secretary), but interest under this section shall not be charged (A) for any period before October 17, 1980, or (B) if the amount due is paid within a reasonable period of time. The Secretary shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an indebtedness after the initial notification of indebtedness has been mailed.

(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Secretary under such regulations.

(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Secretary determines, under such regulations, to be reasonable and appropriate.

(Added Pub. L. 96-466, title VI, §605(a)(1), Oct. 17, 1980, 94 Stat. 2210, §3115; amended Pub. L. 102-16, §6(b)(4), Mar. 22, 1991, 105 Stat. 51; renumbered §5315 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§4(a)(1), (b)(1), (2)(E), 5(C)(1), Aug. 6, 1991, 105 Stat. 403-406; Pub. L. 105-368, title X, §1005(b)(17), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-368 substituted “October 17, 1980,” for “the date of the enactment of this section.”

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3115 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3485(e)” for “1685(e)” in introductory provisions.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in introductory provisions.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans' Administration” in pars. (1) and (3).

Pub. L. 102-40, §402(d)(1), substituted “5302” for “3102” in introductory provisions.

Pub. L. 102-16 substituted “sections 1685(e) and 3102” for “section 3102” in introductory provisions.

Subsecs. (b), (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as a note under section 5314 of this title.

§ 5316. Authority to sue to collect certain debts

(a)(1) The Secretary shall take appropriate steps to authorize attorneys employed by the Department to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Secretary.