

Subsec. (a). Pub. L. 106-65, §578(a)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran that occurs after December 31, 1999.”

Subsec. (b). Pub. L. 106-65, §578(b), substituted “Funeral Honors Details” for “Honor Guard Details” in subsec. (b) heading, designated existing provisions as par. (1), substituted “a funeral honors detail” for “an honor guard detail” and “two or more persons.” for “not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.”, redesignated subsec. (c) as subsec. (b)(2), struck out former subsec. (c) heading “Persons Forming Honor Guards”, and substituted “At least two members of the funeral honors detail for a veteran’s funeral shall be members of the armed forces, at least one of whom shall be a member of the armed force of which the veteran was a member. The remainder of the detail” for “An honor guard detail” and “Each member of the armed forces in the detail shall wear the uniform of the member’s armed force while serving in the detail.” for “The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and is not a member of the armed forces or an employee of the United States.”

Subsec. (c). Pub. L. 106-65, §578(c)(2), added subsec. (c). Former subsec. (c) redesignated subsec. (b)(2).

Subsecs. (d), (e). Pub. L. 106-65, §578(c)(2), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 106-65, §578(d), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran.”

Pub. L. 106-65, §578(c)(1), redesignated subsec. (d) as (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 106-65, §1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Pub. L. 106-65, §578(c)(1), redesignated subsec. (e) as (g).

Subsec. (h). Pub. L. 106-65, §578(e), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: “In this section, the term ‘veteran’ has the meaning given that term in section 101(2) of title 38.”

Pub. L. 106-65, §578(c)(1), redesignated subsec. (f) as (h).

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-163 applicable with respect to funerals and burials that occur on or after Jan. 6, 2006, see section 662(e) of Pub. L. 109-163, set out as a note under section 985 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title V, §578(a)(2), Oct. 5, 1999, 113 Stat. 625, provided that: “Section 1491(a) of title 10,

United States Code, as amended by paragraph (1), shall apply with respect to funerals that occur after December 31, 1999.”

## CHAPTER 76—MISSING PERSONS

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#### AMENDMENTS

2014—Pub. L. 113-291, div. A, title IX, §916(f)(2), Dec. 19, 2014, 128 Stat. 3479, added item 1501a and substituted “Program to resolve missing person cases” for “Program to resolve preenactment missing person cases” in item 1509.

2009—Pub. L. 111-84, div. A, title V, §541(b), Oct. 28, 2009, 123 Stat. 2298, substituted “Program to resolve preenactment missing person cases” for “Preenactment cases” in item 1509.

1996—Pub. L. 104-201, div. A, title V, §578(f)(2)(B), Sept. 23, 1996, 110 Stat. 2537, struck out “, special interest” after “Preenactment” in item 1509.

### § 1501. System for accounting for missing persons

(a) RESPONSIBILITY FOR MISSING PERSONS.—(1)(A) The Secretary of Defense shall designate a single organization within the Department of Defense to have responsibility for Department matters relating to missing persons, including accounting for missing persons and persons whose remains have not been recovered from the conflict in which they were lost.

(B) The organization designated under this paragraph shall be a Defense Agency or other entity of the Department of Defense outside the military departments and is referred to in this chapter as the “designated Defense Agency”.

(C) The head of the organization designated under this paragraph is referred to in this chapter as the “designated Agency Director”.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the designated Agency Director shall include the following:

(A) Policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons, including matters related to search, rescue, escape, and evasion.

(B) Policy, control, and oversight of the program established under section 1509 of this title.

(C) Responsibility for accounting for missing persons, including locating, recovering, and identifying missing persons or their remains after hostilities have ceased.

(D) Coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.

(E) Dissemination of appropriate information on the status of missing persons to authorized family members.

(F) Establishment of a means for communication between officials of the designated Defense Agency and family members of missing persons, veterans service organizations, concerned citizens, and the public on the Department's efforts to account for missing persons, including a readily available means for communication of their views and recommendations to the designated Agency Director.

(3) In carrying out the responsibilities established under this subsection, the designated Agency Director shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

(4) The designated Agency Director shall establish policies, which shall apply uniformly throughout the Department of Defense, for personnel recovery (including search, rescue, escape, and evasion) and for personnel accounting (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased).

(5) The designated Agency Director shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter.

(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

(A) the determination of the status of persons described in subsection (c); and

(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

(c) COVERED PERSONS.—(1) Section 1502 of this title applies in the case of any member of the armed forces on active duty—

(A) who becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(2) Section 1502 of this title applies in the case of any other person who is a citizen of the United States and a civilian officer or employee

of the Department of Defense or (subject to paragraph (3)) an employee of a contractor of the Department of Defense—

(A) who serves in direct support of, or accompanies, the armed forces in the field under orders and becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(3) The Secretary of Defense shall determine, with regard to a pending or ongoing military operation, the specific employees, or groups of employees, of contractors of the Department of Defense to be considered to be covered by this subsection.

(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person described in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

(f) SECRETARY CONCERNED.—In this chapter, the term “Secretary concerned” includes, in the case of a civilian officer or employee of the Department of Defense or an employee of a contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the officer or employee or contracting with the contractor, as the case may be.

(Added Pub. L. 104-106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 336; amended Pub. L. 104-201, div. A, title V, § 578(a)(1), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105-85, div. A, title V, § 599(a)(1), Nov. 18, 1997, 111 Stat. 1766; Pub. L. 106-65, div. A, title X, § 1066(a)(13), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107-314, div. A, title V, § 551, Dec. 2, 2002, 116 Stat. 2551; Pub. L. 108-375, div. A, title V, § 582(a), Oct. 28, 2004, 118 Stat. 1928; Pub. L. 111-383, div. A, title IX, § 901(g), Jan. 7, 2011, 124 Stat. 4322; Pub. L. 113-66, div. A, title V, § 581(a), Dec. 26, 2013, 127 Stat. 773; Pub. L. 113-291, div. A, title IX, § 916(a), Dec. 19, 2014, 128 Stat. 3476.)

#### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to responsibility for missing personnel, consisting of pars. (1) to (6).

2013—Subsec. (a)(1)(D). Pub. L. 113-66 added subpar. (D).

2011—Subsec. (a). Pub. L. 111-383, § 901(g)(1), substituted “Responsibility for Missing Personnel” for “Office for Missing Personnel” in heading.

Subsec. (a)(1). Pub. L. 111-383, §901(g)(2)(A)–(C), in introductory provisions, substituted “designate within the Office of the Secretary of Defense an official as the Deputy Assistant Secretary of Defense for Prisoner of War/Missing Personnel Affairs to have responsibility for Department of Defense matters” for “establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy”, struck out “Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.” after “persons.”, and substituted “of the official designated under this paragraph” for “of the office”.

Subsec. (a)(1)(B), (C). Pub. L. 111-383, §901(g)(2)(D)–(F), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(2). Pub. L. 111-383, §901(g)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111-383, §901(g)(3), (5), redesignated par. (2) as (3), struck out “of the office” after “responsibilities”, and substituted “official designated under paragraph (1) and (2)” for “head of the office”. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 111-383, §901(g)(3), (6), redesignated par. (3) as (4), substituted “designated official” for “office”, and inserted “and for personnel accounting (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased)” after “evasion”. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 111-383, §901(g)(3), (7), redesignated par. (4) as (5) and substituted “designated official” for “office”. Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 111-383, §901(g)(3), redesignated par. (5) as (6).

Subsec. (a)(6)(A). Pub. L. 111-383, §901(g)(8)(A)(ii), which directed the substitution of “activity” for “office” both places appearing, was executed by making the substitution in three places to reflect the probable intent of Congress.

Pub. L. 111-383, §901(g)(8)(A)(i), inserted “The Secretary of Defense shall establish an activity to account for personnel who are missing or whose remains have not been recovered from the conflict in which they were lost. This activity shall be known as the Defense Prisoner of War/Missing Personnel Office.” after “(A)”.

Subsec. (a)(6)(B)(i). Pub. L. 111-383, §901(g)(8)(B), substituted “activity” for “to the office”.

Subsec. (a)(6)(B)(ii). Pub. L. 111-383, §901(g)(8)(C), substituted “activity” for “to the office” and “of the activity” for “of the office”.

Subsec. (a)(6)(C). Pub. L. 111-383, §901(g)(8)(D), substituted “activity” for “office”.

2004—Subsec. (a)(5)(B). Pub. L. 108-375 designated existing provisions as cl. (i), inserted “, whether temporary or permanent,” after “civilian personnel”, and added cl. (ii).

2002—Subsec. (a)(1). Pub. L. 107-314, §551(b), inserted “Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.” after first sentence.

Subsec. (a)(5). Pub. L. 107-314, §551(a), added par. (5). 1999—Subsec. (d). Pub. L. 106-65 substituted “described” for “prescribed” in first sentence.

1997—Subsec. (c). Pub. L. 105-85, §599(a)(1)(A), added subsec. (c) and struck out former subsec. (c) which read as follows:

“(c) COVERED PERSONS.—Section 1502 of this title applies in the case of any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.”

Subsec. (f). Pub. L. 105-85, §599(a)(1)(B), added subsec. (f).

1996—Subsec. (c). Pub. L. 104-201, §578(a)(1)(A), substituted “applies in the case of” for “applies in the case of the following persons:” and “any member” for “(1) Any member” and struck out par. (2) which read as follows: “Any civilian employee of the Department of Defense, and any employee of a contractor of the Depart-

ment of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.”

Subsec. (f). Pub. L. 104-201, §578(a)(1)(B), struck out subsec. (f) which read as follows:

“(f) SECRETARY CONCERNED.—In this chapter, the term ‘Secretary concerned’ includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be.”

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### RECOVERY AND IDENTIFICATION OF REMAINS OF CERTAIN WORLD WAR II SERVICEMEN LOST IN PACIFIC THEATER OF OPERATIONS

Pub. L. 106-65, div. A, title V, §576, Oct. 5, 1999, 113 Stat. 624, as amended by Pub. L. 107-107, div. A, title X, §1048(g)(3), Dec. 28, 2001, 115 Stat. 1228, provided that:

“(a) RECOVERY OF REMAINS.—(1) The Secretary of Defense shall make every reasonable effort to search for, recover, and identify the remains of United States servicemen lost in the Pacific theater of operations during World War II (including in New Guinea) while engaged in flight operations.

“(2) In order to provide high priority to carrying out paragraph (1), the Secretary of Defense shall consider increasing the number of personnel assigned to the Central Identification Laboratory, Hawaii.

“(3) Not later than September 30, 2000, the Secretary shall submit to Congress a report setting forth the efforts made to accomplish the objectives specified in paragraph (1). The Secretary shall include in the report a statement of the backlog of cases at the Central Identification Laboratory, Hawaii, shown by conflict, and the status of the joint manning plan required by section 566(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2029).

“(b) DIPLOMATIC INTERVENTION IF REQUIRED.—The Secretary of State, upon request by the Secretary of Defense, shall work with officials of governments of nations in the area that was covered by the Pacific theater of operations of World War II to seek to overcome any diplomatic obstacles that may impede the Secretary of Defense from carrying out the objectives specified in subsection (a)(1).”

#### POW/MIA INTELLIGENCE ANALYSIS

Pub. L. 105-85, div. A, title IX, §934, Nov. 18, 1997, 111 Stat. 1866, as amended by Pub. L. 106-65, div. A, title X, §1066(c)(4), Oct. 5, 1999, 113 Stat. 773, provided that:

“(a) INTELLIGENCE ANALYSIS.—The Director of Central Intelligence, in consultation with the Secretary of Defense, shall provide intelligence analysis on matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) to all departments and agencies of the Federal Government involved in such matters.

“(b) USE OF INTELLIGENCE IN ANALYSIS OF POW/MIA CASES IN DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that the Defense Prisoner of War/Missing Personnel Office of the Department of Defense takes into full account all intelligence regarding matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) in analyzing cases involving such persons.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of Na-

tional Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 104-106, div. A, title V, § 569(a), Feb. 10, 1996, 110 Stat. 336, provided that: "The purpose of this section [enacting this chapter and section 655 of this title, amending sections 552, 553, 555, and 556 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note under section 5561 of Title 5, Government Organization and Employees] is to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time."

**§ 1501a. Public-private partnerships; other forms of support**

(a) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary of Defense may enter into arrangements known as public-private partnerships with appropriate entities outside the Government for the purposes of facilitating the activities of the designated Defense Agency. The Secretary may only partner with foreign governments or foreign entities with the concurrence of the Secretary of State. Any such arrangement shall be entered into in accordance with authorities provided under this section or any other authority otherwise available to the Secretary. Regulations prescribed under subsection (e)(1) shall include provisions for the establishment and implementation of such partnerships.

(b) ACCEPTANCE OF VOLUNTARY PERSONAL SERVICES.—The Secretary of Defense may accept voluntary services to facilitate accounting for missing persons in the same manner as the Secretary of a military department may accept such services under section 1588(a)(9) of this title.

(c) COOPERATIVE AGREEMENTS AND GRANTS.—

(1) IN GENERAL.—The Secretary of Defense may enter into a cooperative agreement with, or make a grant to, a private entity for purposes related to support of the activities of the designated Defense Agency.

(2) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding section 2304(k) of this title, the Secretary may enter such cooperative agreements or grants on a sole-source basis pursuant to section 2304(c)(5) of this title.

(d) USE OF DEPARTMENT OF DEFENSE PERSONAL PROPERTY.—The Secretary may allow a private entity to use, at no cost, personal property of the Department of Defense to assist the entity in supporting the activities of the designated Defense Agency.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to implement this section.

(2) LIMITATION.—Such regulations shall provide that acceptance of a gift (including a gift

of services) or use of a gift under this section may not occur if the nature or circumstances of the acceptance or use would compromise the integrity, or the appearance of integrity, of any program of the Department of Defense or any individual involved in such program.

(f) DEFINITIONS.—In this section:

(1) COOPERATIVE AGREEMENT.—The term "cooperative agreement" means an authorized cooperative agreement as described in section 6305 of title 31.

(2) GRANT.—The term "grant" means an authorized grant as described in section 6304 of title 31.

(Added Pub. L. 113-291, div. A, title IX, § 916(b), Dec. 19, 2014, 128 Stat. 3477.)

**§ 1502. Missing persons: initial report**

(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts and status of a person described in section 1501(c) of this title is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

(1) recommend that the person be placed in a missing status; and

(2) not later than 10 days after receiving such information, transmit a report containing that recommendation to the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title.

(b) TRANSMISSION OF ADVISORY COPY TO THEATER COMPONENT COMMANDER.—When transmitting a report under subsection (a)(2) recommending that a person be placed in a missing status, the commander transmitting that report shall transmit an advisory copy of the report to the theater component commander with jurisdiction over the missing person.

(c) SAFEGUARDING AND FORWARDING OF RECORDS.—A commander making a preliminary assessment under subsection (a) with respect to a missing person shall (in accordance with procedures prescribed under section 1501 of this title) safeguard and forward for official use any information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person.

(Added Pub. L. 104-106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 338; amended Pub. L. 104-201, div. A, title V, § 578(b)(1), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105-85, div. A, title V, § 599(b)(1), Nov. 18, 1997, 111 Stat. 1768.)

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105-85 added subsec. (b) and redesignated former subsec. (b) as (c).

1996—Subsec. (a)(2). Pub. L. 104-201, § 578(b)(1)(A), substituted "10 days" for "48 hours" and "Secretary concerned" for "theater component commander with jurisdiction over the missing person".

Subsec. (b). Pub. L. 104-201, § 578(b)(1)(D), struck out at end "The theater component commander through whom the report with respect to the missing person is