

May 5, 1950, ch. 169, §1, 64 Stat. 107, which was classified to chapter 22 (§551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47 (§801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, the first section of which enacted this title.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-92 substituted “(or the claimant’s heir or legal representative) or the Secretary concerned” for “or his heir or legal representative”, “discovering” for “he discovers”, and “The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed forces who were similarly harmed by the same error or injustice. A board” for “However, a board”.

2014—Subsecs. (g), (h). Pub. L. 113-291 added subsec. (g) and redesignated former subsec. (g) as (h).

2008—Subsec. (c). Pub. L. 110-417 designated existing provisions as pars. (1) to (3), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (2), and added par. (4).

2002—Subsec. (a)(1). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1998—Subsec. (c). Pub. L. 105-261, §545(a), inserted “, or on account of his or another’s service as a civilian employee” before period at end of first sentence.

Subsec. (g). Pub. L. 105-261, §545(b), added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102-484 substituted “announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade” for “announcing a decision not to promote an enlisted member to a higher grade”.

1989—Subsec. (a). Pub. L. 101-189, §514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of Transportation may in the same manner correct any military record of the Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.”

Subsec. (b). Pub. L. 101-189, §514(b), substituted “subsection (a)(1)” for “subsection (a)” in two places.

Subsec. (e). Pub. L. 101-189, §1621(a)(2), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1988—Subsec. (b). Pub. L. 100-456, §1233(a)(1), substituted “for the correction within three years after he discovers the error or injustice” for “therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later”.

Subsec. (c). Pub. L. 100-456, §1233(a)(2), substituted “The Secretary concerned” for “The department concerned”.

1983—Subsec. (f). Pub. L. 98-209 added subsec. (f).

1980—Subsec. (a). Pub. L. 96-513 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1960—Subsec. (f). Pub. L. 86-533 repealed subsec. (f) which required reports to the Congress every six months with respect to claims paid under this section.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title V, §592(c), Oct. 14, 2008, 122 Stat. 4475, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any sentence of a court-martial set aside by a Corrections Board on or after October 1, 2007, when the Corrections Board includes an order or recommendation for the payment of a claim for the loss of

pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, that arose as a result of the conviction. In this subsection, the term ‘Corrections Board’ has the meaning given that term in section 1557 of title 10, United States Code.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

BOARD FOR CORRECTION OF MILITARY RECORDS

Pub. L. 101-225, title II, §212, Dec. 12, 1989, 103 Stat. 1914, provided that: “Not later than 6 months after the date of the enactment of this Act [Dec. 12, 1989], the Secretary of Transportation shall—

“(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that a complete application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

“(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.”

§ 1553. Review of discharge or dismissal

(a) The Secretary concerned shall, after consulting the Secretary of Veterans Affairs, establish a board of review, consisting of five members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal. With respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

(b) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(c) A review by a board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Secretary of Veterans Affairs under chapter 59 of title 38.

(d)(1) In the case of a former member of the armed forces who, while serving on active duty as a member of the armed forces, was deployed

in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist, or psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury as a consequence of that deployment, a board established under this section to review the former member's discharge or dismissal shall include a member who is a clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post traumatic stress disorder or traumatic brain injury (as applicable).

(2) In the case of a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale or as justification for priority consideration, the Secretary concerned shall expedite a final decision and shall accord such cases sufficient priority to achieve an expedited resolution. In determining the priority of cases, the Secretary concerned shall weigh the medical and humanitarian circumstances of all cases and accord higher priority to cases not involving post-traumatic stress disorder or traumatic brain injury only when the individual cases are considered more compelling.

(e) In the case of a former member of the armed forces (other than a former member covered by subsection (d)) who was diagnosed while serving in the armed forces as experiencing a mental health disorder, a board established under this section to review the former member's discharge or dismissal shall include a member who is a clinical psychologist or psychiatrist, or a physician with special training on mental health disorders.

(Added Pub. L. 85-857, §13(v)(2), Sept. 2, 1958, 72 Stat. 1266; amended Pub. L. 87-651, title I, §110(a), Sept. 7, 1962, 76 Stat. 509; Pub. L. 98-209, §11(b), Dec. 6, 1983, 97 Stat. 1407; Pub. L. 101-189, div. A, title XVI, §1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 111-84, div. A, title V, §512(b), Oct. 28, 2009, 123 Stat. 2281; Pub. L. 113-291, div. A, title V, §521(b), Dec. 19, 2014, 128 Stat. 3360.)

HISTORICAL AND REVISION NOTES

Sections 1553 and 1554 are restated, without substantive change, to conform to the style adopted for title 10.

REFERENCES IN TEXT

The Uniform Code of Military Justice (Public Law 506 of the 81st Congress), referred to in subsec. (a), is act May 5, 1950, ch. 169, §1, 64 Stat. 107, which was classified to chapter 22 (§551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47 (§801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, the first section of which enacted this title.

AMENDMENTS

2014—Subsec. (d)(1). Pub. L. 113-291, §521(b)(1), substituted “clinical psychologist or psychiatrist, or a physician with training on mental health issues connected with post traumatic stress disorder or traumatic brain injury (as applicable)” for “physician, clinical psychologist, or psychiatrist” before period at end.

Subsec. (e). Pub. L. 113-291, §521(b)(2), added subsec. (e).

2009—Subsec. (d). Pub. L. 111-84 added subsec. (d).

1989—Subsecs. (a), (c). Pub. L. 101-189 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1983—Subsec. (a). Pub. L. 98-209 inserted provision that with respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.

1962—Pub. L. 87-651 amended section generally without substantive change to conform to the style adopted for the revision of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans’ Benefits.

CONFIDENTIAL REVIEW OF CHARACTERIZATION OF TERMS OF DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO ARE VICTIMS OF SEXUAL OFFENSES

Pub. L. 113-291, div. A, title V, §547, Dec. 19, 2014, 128 Stat. 3375, provided that:

“(a) CONFIDENTIAL REVIEW PROCESS THROUGH BOARDS FOR CORRECTION OF MILITARY RECORDS.—The Secretaries of the military departments shall each establish a confidential process, utilizing boards for the correction of military records of the military department concerned, by which an individual who was the victim of a sex-related offense during service in the Armed Forces may challenge the terms or characterization of the discharge or separation of the individual from the Armed Forces on the grounds that the terms or characterization were adversely affected by the individual being the victim of such an offense.

“(b) CONSIDERATION OF INDIVIDUAL EXPERIENCES IN CONNECTION WITH OFFENSES.—In deciding whether to modify the terms or characterization of the discharge or separation from the Armed Forces of an individual described in subsection (a), the Secretary of the military department concerned shall instruct boards for the correction of military records—

“(1) to give due consideration to the psychological and physical aspects of the individual’s experience in connection with the sex-related offense; and

“(2) to determine what bearing such experience may have had on the circumstances surrounding the individual’s discharge or separation from the Armed Forces.

“(c) PRESERVATION OF CONFIDENTIALITY.—Documents considered and decisions rendered pursuant to the process required by subsection (a) shall not be made available to the public, except with the consent of the individual concerned.

“(d) SEX-RELATED OFFENSE DEFINED.—In this section, the term ‘sex-related offense’ means any of the following:

“(1) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

“(2) Forcible sodomy under section 925 of such title (article 125 of the Uniform Code of Military Justice).

“(3) An attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of such title (article 80 of the Uniform Code of Military Justice).”

§ 1554. Review of retirement or separation without pay for physical disability

(a) The Secretary concerned shall from time to time establish boards of review, each consisting of five commissioned officers, two of whom shall be selected from officers of the Army Medical Corps, officers of the Navy Medical Corps, Air Force officers designated as medical officers, or officers of the Public Health Service, as the