

the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(g) EXISTING JURISDICTION.—Nothing in this section limits—

(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

(Added Pub. L. 107–107, div. A, title V, §503(a)(1), Dec. 28, 2001, 115 Stat. 1080.)

EFFECTIVE DATE

Section applicable with respect to any proceeding pending on or after Dec. 28, 2001, without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date, but not applicable with respect to any action commenced in a court of the United States before Dec. 28, 2001, see section 503(c) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 628 of this title.

§ 1559. Personnel limitation

(a) LIMITATION.—Before December 31, 2016, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

(1) the Secretary submits to Congress a report that—

(A) describes the reduction proposed to be made;

(B) provides the Secretary’s rationale for that reduction; and

(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

(2) a period of 90 days has elapsed after the date on which the report is submitted.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term “service review agency” means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.

(Added Pub. L. 107–314, div. A, title V, §552(a), Dec. 2, 2002, 116 Stat. 2552; amended Pub. L. 108–375, div. A, title V, §581, Oct. 28, 2004, 118 Stat. 1928; Pub. L. 110–417, [div. A], title V, §593, Oct. 14, 2008, 122 Stat. 4475; Pub. L. 111–383, div. A, title V, §533(b), Jan. 7, 2011, 124 Stat. 4216; Pub. L. 112–239, div. A, title V, §520, title X, §1076(b)(2), Jan. 2, 2013, 126 Stat. 1722, 1949.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 112–239, §1076(b)(2), made technical amendment to directory language of Pub. L. 111–383. See 2011 Amendment note below.

Pub. L. 112–239, §520, substituted “December 31, 2016” for “December 31, 2013”.

2011—Subsec. (a). Pub. L. 111–383, as amended by Pub. L. 112–239, §1076(b)(2), substituted “December 31, 2013” for “December 31, 2010” in introductory provisions.

2008—Subsec. (a). Pub. L. 110–417 substituted “December 31, 2010” for “October 1, 2008” in introductory provisions.

2004—Subsec. (a). Pub. L. 108–375 substituted “Before October 1, 2008,” for “During fiscal years 2003, 2004, and 2005.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(b), Jan. 2, 2013, 126 Stat. 1949, provided that the amendment made by section 1076(b)(2) is effective Jan. 7, 2011, and as if included in Pub. L. 111–383 as enacted.

CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

- Sec.
- 1561. Complaints of sexual harassment: investigation by commanding officers.
- 1561a. Civilian orders of protection: force and effect on military installations.
- 1562. Database on domestic violence incidents.
- 1563. Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review.
- 1564. Security clearance investigations.
- 1564a. Counterintelligence polygraph program.
- 1565. DNA identification information: collection from certain offenders; use.
- 1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes.
- 1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates.
- 1566. Voting assistance: compliance assessments; assistance.
- 1566a. Voting assistance: voter assistance offices.
- 1567. Duration of military protective orders.
- 1567a. Mandatory notification of issuance of military protective order to civilian law enforcement.

PRIOR PROVISIONS

A prior chapter 80, comprised of sections 1571 to 1577, relating to Exemplary Rehabilitation Certificates, was repealed by Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220.

AMENDMENTS

2011—Pub. L. 112–81, div. A, title V, §581(b)(2), Dec. 31, 2011, 125 Stat. 1431, added item 1565b.

2009—Pub. L. 111–84, div. A, title V, §583(b)(2), Oct. 28, 2009, 123 Stat. 2330, added item 1566a.

2008—Pub. L. 110–417, [div. A], title V, §§561(b), 562(b), Oct. 14, 2008, 122 Stat. 4470, added items 1567 and 1567a.

2003—Pub. L. 108–136, div. A, title X, §§1031(a)(11)(B), 1041(a)(2), Nov. 24, 2003, 117 Stat. 1597, 1608, struck out “and recommendation” after “review” in item 1563 and added item 1564a.

2002—Pub. L. 107-314, div. A, title X, § 1063(b), Dec. 2, 2002, 116 Stat. 2653, added item 1565a.

Pub. L. 107-311, § 2(b), Dec. 2, 2002, 116 Stat. 2455, added item 1561a.

2001—Pub. L. 107-107, div. A, title XVI, § 1602(a)(2), Dec. 28, 2001, 115 Stat. 1276, added item 1566.

2000—Pub. L. 106-546, § 5(a)(2), Dec. 19, 2000, 114 Stat. 2732, added item 1565.

Pub. L. 106-398, § 1 [[div. A], title V, § 542(b), title X, § 1072(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-115, 1654A-277, added items 1563 and 1564.

1999—Pub. L. 106-65, div. A, title V, § 594(b), Oct. 5, 1999, 113 Stat. 644, added item 1562.

§ 1561. Complaints of sexual harassment: investigation by commanding officers

(a) ACTION ON COMPLAINTS ALLEGING SEXUAL HARASSMENT.—A commanding officer or officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, or Marine Corps who receives from a member of the command or a civilian employee under the supervision of the officer a complaint alleging sexual harassment by a member of the armed forces or a civilian employee of the Department of Defense shall carry out an investigation of the matter in accordance with this section.

(b) COMMENCEMENT OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall, within 72 hours after receipt of the complaint—

(1) forward the complaint or a detailed description of the allegation to the next superior officer in the chain of command who is authorized to convene a general court-martial;

(2) commence, or cause the commencement of, an investigation of the complaint; and

(3) advise the complainant of the commencement of the investigation.

(c) DURATION OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall ensure that the investigation of the complaint is completed not later than 14 days after the date on which the investigation is commenced.

(d) REPORT ON INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall—

(1) submit a final report on the results of the investigation, including any action taken as a result of the investigation, to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced; or

(2) submit a report on the progress made in completing the investigation to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced and every 14 days thereafter until the investigation is completed and, upon completion of the investigation, then submit a final report on the results of the investigation, including any action taken as a result of the investigation, to that next superior officer.

(e) SEXUAL HARASSMENT DEFINED.—In this section, the term “sexual harassment” means any of the following:

(1) Conduct (constituting a form of sex discrimination) that—

(A) involves unwelcome sexual advances, requests for sexual favors, and deliberate or

repeated offensive comments or gestures of a sexual nature when—

(i) submission to such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay, or career;

(ii) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(iii) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive working environment; and

(B) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive.

(2) Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the armed forces or a civilian employee of the Department of Defense.

(3) Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature in the workplace by any member of the armed forces or civilian employee of the Department of Defense.

(Added Pub. L. 105-85, div. A, title V, § 591(a)(1), Nov. 18, 1997, 111 Stat. 1760.)

PRIOR PROVISIONS

Prior sections 1571 to 1577, Pub. L. 89-690, § 1, Oct. 15, 1966, 80 Stat. 1016, related to creation of Exemplary Rehabilitation Certificates to be issued by the Secretary of Labor to persons discharged or dismissed from the Armed Forces under conditions other than honorable or to persons who had received a general discharge but who had established that they had rehabilitated themselves and established the administrative and other authority in connection therewith, prior to repeal by Pub. L. 90-83, § 3(2), Sept. 11, 1967, 81 Stat. 220.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-311, § 1, Dec. 2, 2002, 116 Stat. 2455, provided that: “This Act [enacting section 1561a of this title] may be cited as the ‘Armed Forces Domestic Security Act.’”

RETENTION OF CASE NOTES IN INVESTIGATIONS OF SEX-RELATED OFFENSES INVOLVING MEMBERS OF THE ARMY, NAVY, AIR FORCE, OR MARINE CORPS

Pub. L. 114-92, div. A, title V, § 541, Nov. 25, 2015, 129 Stat. 819, provided that:

“(a) RETENTION OF ALL INVESTIGATIVE RECORDS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall update Department of Defense records retention policies to ensure that, for all investigations relating to an alleged sex-related offense (as defined in section 1044e(g) of title 10, United States Code) involving a member of the Army, Navy, Air Force, or Marine Corps, all elements of the case file shall be retained as part of the investigative records retained in accordance with section 586 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 10 U.S.C. 1561 note).

“(b) ELEMENTS.—In updating records retention policies as required by subsection (a), the Secretary of Defense shall address, at a minimum, the following matters:

“(1) The elements of the case file to be retained must include, at a minimum, the case activity