

## CODIFICATION

Another section 1040 was renumbered section 1041 of this title.

Another section 1040, related to free postage from combat zones, was added by Pub. L. 89-132, §9(a), Aug. 21, 1965, 79 Stat. 548, prior to repeal by Pub. L. 89-315, §3(a), Nov. 1, 1965, 79 Stat. 1164. See section 3401 et seq. of Title 39, Postal Service.

## AMENDMENTS

2015—Subsec. (a)(2)(F). Pub. L. 114-92 struck out subpar. (F) which read as follows: “The authority under this paragraph shall expire on September 30, 2016.”

2014—Subsec. (a)(1). Pub. L. 113-291 substituted “37.” for “37..”.

2013—Subsec. (a)(1). Pub. L. 113-66, §621(b)(1), substituted “travel and transportation allowances may be furnished to necessary attendants. The dependents and any attendants shall be furnished such travel and transportation allowances as specified in regulations prescribed under section 464 of title 37.” for “round-trip transportation and travel expenses may be furnished necessary attendants. In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States”.

Subsec. (d). Pub. L. 113-66, §621(b)(2), struck out subsec. (d) which read as follows: “Transportation and travel expenses authorized by this section shall be furnished in accordance with joint regulations to be prescribed by the Secretary of Transportation, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Health and Human Services, which shall require the use of transportation facilities of the United States insofar as practicable.”

2011—Subsec. (a). Pub. L. 112-81 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (a). Pub. L. 99-661 substituted “In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance” for “, and such expenses may be paid in advance”.

Subsec. (c). Pub. L. 99-348 substituted “In this section, the term ‘dependent’ has the meaning given that term in” for “‘Dependent’ and ‘uniformed services’ in this section have the meanings of those terms as defined in”.

1984—Subsec. (a). Pub. L. 98-525, §1405(21), substituted “30” for “thirty”.

Pub. L. 98-525, §611, made provisions of section applicable to a dependent accompanying a member of the uniformed services stationed in Alaska or Hawaii.

1983—Subsec. (a). Pub. L. 98-94 inserted “, and such expenses may be paid in advance” after “attendants”.

1980—Subsec. (d). Pub. L. 96-513 substituted “Secretary of Transportation” and “Secretary of Health and Human Services” for “Secretary of the Treasury” and “Secretary of Health, Education, and Welfare”, respectively.

## EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-661, div. A, title VI, §616(b), Nov. 14, 1986, 100 Stat. 3880, provided that: “The amendment made by subsection (a) [amending this section] shall apply only to travel performed on or after the date of the enactment of this Act [Nov. 14, 1986].”

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, §611, Oct. 19, 1984, 98 Stat. 2538, provided that the amendment made by that section is effective Oct. 1, 1984.

## EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §913(c), Sept. 24, 1983, 97 Stat. 640, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1036 of this title] shall apply to travel performed by escorts or attendants of dependents on or after the date of the enactment of this Act [Sept. 24, 1983].”

## 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.

**§ 1041. Replacement of certificate of discharge**

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from an armed force or that it was destroyed without his procurement or connivance, the Secretary concerned may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this section may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

(Added Pub. L. 90-235, §7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762, §1040; renumbered §1041, Pub. L. 96-513, title V, §511(33)(A), Dec. 12, 1980, 94 Stat. 2922.)

**§ 1042. Copy of certificate of service**

A fee for a copy of a certificate showing service in the armed forces may not be charged to—

- (1) a person discharged or released from the armed forces honorably or under honorable conditions;
- (2) the next of kin of the person; or
- (3) a legal representative of the person.

(Added Pub. L. 97-258, §2(b)(2)(B), Sept. 13, 1982, 96 Stat. 1052.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1042 .....	31:483b.	June 19, 1956, ch. 409, 70 Stat. 297.

The words “armed forces” are substituted for “Army, Navy, Air Force, Marine Corps, or Coast Guard” because of 10:101(4). The words “honorably or” are added for consistency with 10:1040.

**§ 1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service**

Active commissioned service in the National Oceanic and Atmospheric Administration or the Public Health Service shall be credited as active commissioned service in the armed forces for purposes of determining the retirement eligibility and computing the retired pay of a member of the armed forces.

(Added Pub. L. 98-94, title X, §1007(b)(1), Sept. 24, 1983, 97 Stat. 662.)

**§ 1044. Legal assistance**

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide

legal assistance in connection with their personal civil legal affairs to the following persons:

(1) Members of the armed forces who are on active duty.

(2) Members and former members entitled to retired or retainer pay or equivalent pay.

(3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

(4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).

(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, satisfies the additional qualifications and training requirements specified in subsection (d) of such section.

(3) In this subsection, the term "military legal assistance" includes—

(A) legal assistance provided under this section; and

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, 1044d, 1044e, and 1565b(a)(1)(A) of this title.

(e) The Secretary concerned shall define "dependent" for the purposes of this section.

(Added Pub. L. 98-525, title VI, §651(a), Oct. 19, 1984, 98 Stat. 2549; amended Pub. L. 104-201, div. A, title V, §583, Sept. 23, 1996, 110 Stat. 2538; Pub. L. 106-398, §1 [[div. A], title V, §524(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108; Pub. L. 109-163, div. A, title V, §555, Jan. 6, 2006, 119 Stat. 3265; Pub. L. 110-181, div. A, title V, §541, Jan. 28, 2008, 122 Stat. 114; Pub. L. 111-84, div. A, title V, §513, Oct. 28, 2009, 123 Stat. 2282; Pub. L. 112-239, div. A, title V, §531(d)(2), Jan. 2, 2013, 126 Stat. 1726; Pub. L. 113-66, div. A, title XVII, §1716(a)(3)(A), (B), Dec. 26, 2013, 127 Stat. 969; Pub. L. 113-291, div. A, title X, §1071(f)(12), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114-92, div. A, title V, §535(c), Nov. 25, 2015, 129 Stat. 816.)

#### AMENDMENTS

2015—Subsec. (d)(2). Pub. L. 114-92 substituted "satisfies the additional qualifications and training requirements specified in subsection (d)" for "meets the additional qualifications specified in subsection (d)(2)".

2014—Subsec. (d)(2). Pub. L. 113-291 substituted "such section." for "such section..".

2013—Subsec. (b). Pub. L. 112-239 inserted "and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps," after "jurisdiction of the Secretary".

Subsec. (d)(2). Pub. L. 113-66, §1716(a)(3)(A), inserted before period at end "and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, meets the additional qualifications specified in subsection (d)(2) of such section."

Subsec. (d)(3)(B). Pub. L. 113-66, §1716(a)(3)(B), substituted "1044d, 1044e, and 1565b(a)(1)(A)" for "and 1044d".

2009—Subsec. (a)(4). Pub. L. 111-84 substituted "the Secretary), for a period of time (prescribed by the Secretary)" for "the Secretary of Defense, for a period of time, prescribed by the Secretary of Defense,".

2008—Subsec. (a)(6), (7). Pub. L. 110-181 added pars. (6) and (7).

2006—Subsecs. (d), (e). Pub. L. 109-163 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Subsec. (a)(4). Pub. L. 106-398, §1 [[div. A], title V, §524(a)(2)], added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 106-398, §1 [[div. A], title V, §524(b)], substituted "(3), and (4)" for "and (3)".

Pub. L. 106-398, §1 [[div. A], title V, §524(a)(1)], redesignated par. (4) as (5).

1996—Subsec. (a). Pub. L. 104-201, §583(d)(1), substituted "to the following persons:" for "to—" in introductory provisions.

Subsec. (a)(1). Pub. L. 104-201, §583(c), (d)(2), (3), substituted "Members" for "members", struck out "under his jurisdiction" after "armed forces", and substituted a period for the semicolon at end.

Subsec. (a)(2). Pub. L. 104-201, §583(c), (d)(2), (4), substituted "Members and" for "members and", struck out "under his jurisdiction" after "former members", and substituted a period for ";" and "and" at end.

Subsec. (a)(3), (4). Pub. L. 104-201, §583(a), added pars. (3) and (4) and struck out former par. (3) which read as follows: "dependents of members and former members described in clauses (1) and (2)."

Subsec. (c). Pub. L. 104-201, §583(b), substituted "uniformed services described in subsection (a)" for "armed forces" and inserted "such" after "dependent of".

## REGULATIONS

Pub. L. 106-398, §1 [[div. A], title V, §524(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108, provided that: "Regulations to implement the amendments made by this section [amending this section] shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000]."

**§ 1044a. Authority to act as notary**

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the armed forces.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the armed forces, including reserve members when not in a duty status, who are designated by regulations of the armed forces or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(6) All civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel (as defined in section 1044d(g) of this title).

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(Added Pub. L. 101-510, div. A, title V, §551(a)(1), Nov. 5, 1990, 104 Stat. 1566; amended Pub. L. 104-201, div. A, title V, §573, Sept. 23, 1996, 110 Stat. 2534; Pub. L. 107-107, div. A, title XI, §1103, Dec. 28, 2001, 115 Stat. 1236; Pub. L. 114-328, div. A, title V, §523(b), Dec. 23, 2016, 130 Stat. 2116.)

## AMENDMENTS

2016—Subsec. (b)(6). Pub. L. 114-328 added par. (6).  
2001—Subsec. (b)(2). Pub. L. 107-107, §1103(a), substituted "legal assistance attorneys" for "legal assistance officers".

Subsec. (b)(5). Pub. L. 107-107, §1103(b), added par. (5).  
1996—Subsec. (b)(1). Pub. L. 104-201, §573(1), substituted ", including reserve judge advocates when not in a duty status" for "on active duty or performing inactive-duty training".

Subsec. (b)(3). Pub. L. 104-201, §573(2), substituted "adjutants, including reserve members when not in a duty status" for "adjutants on active duty or performing inactive-duty training".

Subsec. (b)(4). Pub. L. 104-201, §573(3), substituted "members of the armed forces, including reserve members when not in a duty status," for "persons on active duty or performing inactive-duty training".

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 1044b. Military powers of attorney: requirement for recognition by States**

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—A military power of attorney—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for powers of attorney under the laws of a State; and

(2) shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the State concerned.

(b) MILITARY POWER OF ATTORNEY.—For purposes of this section, a military power of attorney is any general or special power of attorney that is notarized in accordance with section 1044a of this title or other applicable State or Federal law.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, each military power of attorney shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a military power of attorney that does not include a statement described in that paragraph.

(d) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(Added Pub. L. 103-160, div. A, title V, §574(a), Nov. 30, 1993, 107 Stat. 1674.)

**§ 1044c. Advance medical directives of members and dependents: requirement for recognition by States**

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—An advance medical directive executed by a person eligible for legal assistance—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

(2) shall be given the same legal effect as an advance medical directive prepared and exe-