

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.

**§ 12317. Reserves: theological students; limitations**

A Reserve may not be required to serve on active duty, or to participate in inactive duty training, while preparing for the ministry in a recognized theological or divinity school.

(Added Pub. L. 85-861, §1(15), Sept. 2, 1958, 72 Stat. 1441, §685; renumbered §12317, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
686 .....	50:961(h) (last sentence).	Aug. 9, 1955, ch. 665, §2(g) (last sentence), 69 Stat. 599.

The words “active training and service, active duty for training” are omitted as covered by the words “active duty” as defined in section 101(22) of this title.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 685 of this title as this section.

**§ 12318. Reserves on active duty: duties; funding**

(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 12302 or 12304 of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

(b) Funds available for the pay and allowances of Reserves referred to section 12310 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 12302 or 12304 of this title under the authority of subsection (a).

(Added Pub. L. 99-661, div. A, title IV, §412(b)(1), Nov. 14, 1986, 100 Stat. 3861, §686; renumbered §12318 and amended Pub. L. 103-337, div. A, title XVI, §§1662(e)(2), 1675(c)(9), Oct. 5, 1994, 108 Stat. 2992, 3017.)

AMENDMENTS

1994—Pub. L. 103-337, §1662(e)(2), renumbered section 686 of this title as this section.

Pub. L. 103-337, §1675(c)(9), substituted “12302 or 12304” for “673 or 673b” in subssecs. (a) and (b) and “12310” for “678” in subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

**§ 12319. Ready Reserve: muster duty**

(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered without his consent to muster duty one time each year. A member ordered to muster duty under this section shall be required to perform a minimum of two hours of muster duty on the day of muster.

(b) The period which a member may be required to devote to muster duty under this sec-

tion, including round-trip travel to and from the location of that duty, may not total more than one day each calendar year.

(c) Except as specified in subsection (d), muster duty (and travel directly to and from that duty) under this section shall be treated as the equivalent of inactive-duty training (and travel directly to and from that training) for the purposes of this title and the provisions of title 37 (other than section 206(a)) and title 38, including provisions relating to the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 1223 of this title.

(Added Pub. L. 101-189, div. A, title V, §502(a)(1), Nov. 29, 1989, 103 Stat. 1436, §687; renumbered §12319 and amended Pub. L. 103-337, div. A, title XVI, §§1662(e)(2), 1675(c)(10), Oct. 5, 1994, 108 Stat. 2992, 3018.)

AMENDMENTS

1994—Pub. L. 103-337, §1662(e)(2), renumbered section 687 of this title as this section.

Subsec. (d). Pub. L. 103-337, §1675(c)(10), substituted “1223” for “67”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

**§ 12320. Reserve officers: grade in which ordered to active duty**

A reserve officer who is ordered to active duty or full-time National Guard duty shall be ordered to active duty or full-time National Guard duty in his reserve grade, except that a reserve officer who is credited with service under section 12207 of this title and is ordered to active duty and placed on the active-duty list may be ordered to active duty in a reserve grade and with a date of rank and position on the active-duty list determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.

(Added Pub. L. 96-513, title I, §106, Dec. 12, 1980, 94 Stat. 2868, §689; amended Pub. L. 97-22, §4(g), July 10, 1981, 95 Stat. 127; renumbered §12320 and amended Pub. L. 103-337, div. A, title XVI, §§1625, 1662(e)(2), 1675(c)(11), Oct. 5, 1994, 108 Stat. 2962, 2992, 3018; Pub. L. 104-106, div. A, title XV, §1501(a)(2), Feb. 10, 1996, 110 Stat. 495.)

AMENDMENTS

1996—Pub. L. 104-106 made technical correction to directory language of Pub. L. 103-337, §1625. See 1994 Amendment note below.

1994—Pub. L. 103-337, §1675(c)(11), substituted “12207” for “3353, 5600, or 8353”.

Pub. L. 103-337, §1662(e)(2), renumbered section 689 of this title as this section.

Pub. L. 103-337, §1625, as amended by Pub. L. 104-106, inserted “or full-time National Guard duty” after “who is ordered to active duty” and after “shall be ordered to active duty” and inserted “and placed on the active-duty list” after “and is ordered to active duty”.

1981—Pub. L. 97-22 inserted provision relating to a reserve officer who is credited with service under section 3353, 5600, or 8353 of this title and is ordered to active duty.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(e)(2) and 1675(c)(11) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1625 of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned

The number of members of the reserve components serving on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components who are assigned to duty with a unit of the Reserve Officer Training Corps program may not exceed 275.

(Added Pub. L. 101-510, div. A, title V, §559(a)(1), Nov. 5, 1990, 104 Stat. 1571, §687; renumbered §690 and amended Pub. L. 102-25, title VII, §704(a)(3)(A), (B), Apr. 6, 1991, 105 Stat. 118; Pub. L. 102-190, div. A, title X, §1061(a)(4)(A), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102-484, div. A, title V, §512, Oct. 23, 1992, 106 Stat. 2405; Pub. L. 103-160, div. A, title V, §512, Nov. 30, 1993, 107 Stat. 1649; renumbered §12321 and amended Pub. L. 103-337, div. A, title XVI, §1662(e)(2), (3), Oct. 5, 1994, 108 Stat. 2992.)

#### AMENDMENTS

1994—Pub. L. 103-337 renumbered section 690 of this title as this section and substituted “Reserve Officer Training Corps units: limitation on number of Reserves assigned” for “Limitation on duty with Reserve Officer Training Corps units” as section catchline.

1993—Pub. L. 103-160 substituted “may not exceed 275” for “may not exceed 200”.

1992—Pub. L. 102-484 substituted “The number of members of the reserve components” for “A member of a reserve component”, “who are assigned” for “may not be assigned”, and “may not exceed 200.” for period at end.

1991—Pub. L. 102-190 substituted “Corps” for “Corp” in section catchline.

Pub. L. 102-25, §704(a)(3)(B), renumbered section 687 of this title as this section.

Pub. L. 102-25, §704(a)(3)(A), made technical correction to directory language of Pub. L. 101-510, §559(a)(1), which enacted this section.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-25, title VII, §704(e), Apr. 6, 1991, 105 Stat. 120, provided that: “The amendments made by this sec-

tion [amending this section and sections 6686 and 7381b of Title 42, The Public Health and Welfare, and amending provisions set out as notes under this section, sections 1701, 1705, 1721, 1724, 1733, 2302, 2306a, 2432, and 3074 of this title, and section 1928 of Title 22, Foreign Relations and Intercourse] shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).”

#### EFFECTIVE DATE

Pub. L. 101-510, div. A, title V, §559(b), Nov. 5, 1990, 104 Stat. 1571, as amended by Pub. L. 102-25, title VII, §704(a)(3)(C), Apr. 6, 1991, 105 Stat. 118, provided that: “Section 690 [now 12321] of title 10, United States Code, as added by subsection (a), shall take effect on September 30, 1991.”

#### WAIVER OF PROHIBITION ON CERTAIN RESERVE SERVICE WITH ROTC PROGRAM

Pub. L. 102-190, div. A, title V, §525, Dec. 5, 1991, 105 Stat. 1363, as amended by Pub. L. 104-106, div. A, title XV, §1501(d)(2), Feb. 10, 1996, 110 Stat. 500, provided that: “The Secretary of the military department concerned may waive the prohibition in section 12321 of title 10, United States Code, in the case of a member of a reserve component of the Armed Forces referred to in that section who is serving in an assignment to duty with a unit of the Reserve Officer Training Corps program on September 30, 1991, if the Secretary determines that the removal of the member from that assignment will cause a financial hardship for that member.”

### § 12322. Active duty for health care

A member of a uniformed service described in paragraph (1)(B) or (2)(B) of section 1074a(a) of this title may be ordered to active duty, and a member of a uniformed service described in paragraph (1)(A) or (2)(A) of such section may be continued on active duty, for a period of more than 30 days while the member is being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty as described in any of such paragraphs.

(Added Pub. L. 106-65, div. A, title VII, §705(a)(1), Oct. 5, 1999, 113 Stat. 683.)

### § 12323. Active duty pending line of duty determination required for response to sexual assault

(a) CONTINUATION ON ACTIVE DUTY.—In the case of a member of a reserve component who is the alleged victim of sexual assault committed while on active duty and who is expected to be released from active duty before the determination is made regarding whether the member was assaulted while in the line of duty (in this section referred to as a “line of duty determination”), the Secretary concerned, upon the request of the member, may order the member to be retained on active duty until completion of the line of duty determination. A member eligible for continuation on active duty under this subsection shall be informed as soon as practicable after the alleged assault of the option to request continuation on active duty under this subsection.

(b) RETURN TO ACTIVE DUTY.—In the case of a member of a reserve component not on active duty who is the alleged victim of a sexual assault that occurred while the member was on active duty and when the line of duty determination is not completed, the Secretary concerned, upon the request of the member, may order the