

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” 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 executed in accordance with the laws of the State concerned.

(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance 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 an advance medical directive that does not include a statement described in that paragraph.

(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce advance medical directives under the laws of the State.

(e) DEFINITIONS.—In this section:

(1) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(2) The term “person eligible for legal assistance” means a person who is eligible for legal assistance under section 1044 of this title.

(3) The term “legal assistance” means legal services authorized under section 1044 of this title.

(Added Pub. L. 104-106, div. A, title VII, §749(a)(1), Feb. 10, 1996, 110 Stat. 388.)

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104-106, div. A, title VII, §749(b), Feb. 10, 1996, 110 Stat. 389, provided that: “Section 1044c of title 10, United States Code, shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to advance medical directives referred to in that section that are executed before, on, or after that date.”

**§ 1044d. Military testamentary instruments: requirement for recognition by States**

(a) TESTAMENTARY INSTRUMENTS TO BE GIVEN LEGAL EFFECT.—A military testamentary instrument—

(1) is exempt from any requirement of form, formality, or recording before probate that is provided for testamentary instruments under the laws of a State; and

(2) has the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is presented for probate.

(b) MILITARY TESTAMENTARY INSTRUMENTS.—For purposes of this section, a military testamentary instrument is an instrument that is prepared with testamentary intent in accordance with regulations prescribed under this section and that—

(1) is executed in accordance with subsection (c) by (or on behalf of) a person, as a testator, who is eligible for military legal assistance;

(2) makes a disposition of property of the testator; and

(3) takes effect upon the death of the testator.

(c) REQUIREMENTS FOR EXECUTION OF MILITARY TESTAMENTARY INSTRUMENTS.—An instrument is valid as a military testamentary instrument only if—

(1) the instrument is executed by the testator (or, if the testator is unable to execute the instrument personally, the instrument is executed in the presence of, by the direction of, and on behalf of the testator);

(2) the execution of the instrument is notarized by—

(A) a military legal assistance counsel;

(B) a person who is authorized to act as a notary under section 1044a of this title who—

(i) is not an attorney; and

(ii) is supervised by a military legal assistance counsel; or

(C) a State-licensed notary employed by a military department or the Coast Guard who is supervised by a military legal assistance counsel;

(3) the instrument is executed in the presence of at least two disinterested witnesses (in addition to the person notarizing the instrument in accordance with paragraph (2)), each of whom attests to witnessing the testator's execution of the instrument by signing it; and

(4) the instrument is executed in accordance with such additional requirements as may be provided in regulations prescribed under this section.

(d) SELF-PROVING MILITARY TESTAMENTARY INSTRUMENTS.—(1) If the document setting forth a military testamentary instrument meets the requirements of paragraph (2), then the signature of a person on the document as the testator, an attesting witness, a notary, or the presiding attorney, together with a written representation of the person's status as such and the person's military grade (if any) or other title, is prima facie evidence of the following:

(A) That the signature is genuine.