

section, the Secretary shall ensure that the file contains a notice that withheld information exists.

(e) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the primary next of kin, the other members of the immediate family, or any other previously designated person of the person.

(f) NONDISCLOSURE OF CERTAIN INFORMATION.—A record of the content of a debriefing of a missing person returned to United States control during the period beginning on July 8, 1959, and ending on February 10, 1996, that was conducted by an official of the United States authorized to conduct the debriefing is privileged information and, notwithstanding sections 552 and 552a of title 5, may not be disclosed, in whole or in part, under either such section. However, this subsection does not limit the responsibility of the Secretary concerned under paragraphs (3) and (4) of subsection (d) to place extracts of non-derogatory information, or a notice of the existence of such information, in the personnel file of a missing person.

(Added Pub. L. 104–106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 346; amended Pub. L. 104–201, div. A, title V, § 578(d), Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title V, § 599(f), (g), Nov. 18, 1997, 111 Stat. 1770; Pub. L. 106–65, div. A, title V, § 575, Oct. 5, 1999, 113 Stat. 624; Pub. L. 107–107, div. A, title V, § 573, Dec. 28, 2001, 115 Stat. 1122; Pub. L. 113–66, div. A, title V, § 582(a), Dec. 26, 2013, 127 Stat. 776.)

AMENDMENTS

2013—Subsec. (d)(2) to (4). Pub. L. 113–66, § 582(a)(1), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f). Pub. L. 113–66, § 582(a)(2), substituted “paragraphs (3) and (4)” for “paragraphs (2) and (3)”.

2001—Subsec. (b)(2). Pub. L. 107–107 designated existing provisions as subpar. (A), inserted “of all missing persons from the conflict or period of war to which the classified information pertains” before period at end, and added subpar. (B).

1999—Subsec. (f). Pub. L. 106–65 added subsec. (f).

1997—Subsec. (b). Pub. L. 105–85, § 599(f), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d)(2). Pub. L. 105–85, § 599(g)(1), inserted “or about unnamed missing persons” after “the debriefing report” in first sentence, substituted “each missing person named in the debriefing report” for “the missing person” in second sentence, and inserted at end “Any information contained in the extract of the debriefing report that pertains to unnamed missing persons shall be made reasonably accessible to the primary next of kin, members of the immediate family, and the previously designated person.”

Subsec. (d)(3). Pub. L. 105–85, § 599(g)(2), inserted “, or part of a debriefing report,” after “a debriefing report”.

1996—Subsecs. (e), (f). Pub. L. 104–201 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: “WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.”

§ 1507. Recommendation of status of death

(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1503, 1504, or 1505 of this title may not recommend that a person be declared dead unless—

(1) credible evidence exists to suggest that the person is dead;

(2) the United States possesses no credible evidence that suggests that the person is alive; and

(3) representatives of the United States—

(A) have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

(B) have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort to obtain access to such records, such representatives are not granted such access).

(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1503, 1504, or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under that section the following:

(1) A detailed description of the location where the death occurred.

(2) A statement of the date on which the death occurred.

(3) A description of the location of the body, if recovered.

(4) If the body has been recovered and is not identifiable through visual means, a certification by a forensic pathologist that the body recovered is that of the missing person. In determining whether to make such a certification, the forensic pathologist shall consider, as determined necessary by the Secretary of the military department concerned, additional evidence and information provided by appropriate specialists in forensic medicine or other appropriate medical sciences.

(Added Pub. L. 104–106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 347; amended Pub. L. 104–201, div. A, title V, § 578(e), Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105–85, div. A, title V, § 599(c), Nov. 18, 1997, 111 Stat. 1768.)

AMENDMENTS

1997—Subsec. (b)(3), (4). Pub. L. 105–85 added pars. (3) and (4).

1996—Subsec. (b)(3), (4). Pub. L. 104–201 struck out pars. (3) and (4) which read as follows:

“(3) A description of the location of the body, if recovered.

“(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.”

§ 1508. Judicial review

(a) RIGHT OF REVIEW.—A person who is the primary next of kin (or the previously designated person) of a person who is the subject of a finding described in subsection (b) may obtain judicial review in a United States district court of that finding, but only on the basis of a claim