

34617; Ex. Ord. No. 13286, § 60, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 *et seq.* [now 50 U.S.C. 3801 *et seq.*], hereinafter referred to as the Act), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Director of Selective Service (hereinafter referred to as the Director) is authorized to prescribe the necessary rules and regulations to carry out the provisions of the Act. Regulations heretofore issued by the President to carry out such provisions shall continue in effect until amended or revoked by the Director pursuant to the authority conferred by this Order.

SEC. 2. (a) In carrying out the provisions of this Order, the Director shall cause any rule or regulation which he proposes to issue hereunder to be published in the FEDERAL REGISTER as required by section 13(b) of the Act [50 U.S.C. 3812(b)]. Prior to such publication, the Director shall request the views of the Secretary of Defense, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Homeland Security (when the Coast Guard is serving under the Department of Homeland Security), the Director of the Office of Emergency Preparedness, and the Chairman of the National Selective Service Appeal Board with regard to such proposed rule or regulation, and shall allow not less than 10 days for the submission of such views before publication of the proposed rule or regulation.

(b) Any proposed rule or regulation as published by the Director shall be furnished to the officials required to be consulted pursuant to subsection (a). The Director may (not less than 30 days after publication in the FEDERAL REGISTER) issue such rule or regulation as published unless, within 10 days after being furnished with the proposed rule or regulation as published, any such official shall notify the Director that he disagrees therewith and requests that the matter be referred to the President for decision.

(c) Any rule or regulation issued by the Director pursuant to this Order shall be published in the FEDERAL REGISTER with (1) a statement reciting compliance with the prepublication requirement of section 13(b) of the Act [50 U.S.C. 3812(b)], and (2) either (i) approval of such rule or regulation by the President, or (ii) a certification of the Director that he has requested the views of the officials required to be consulted pursuant to subsection (a) and that none of them has timely requested that the matter be referred to the President for decision. Such rule or regulation shall be effective upon such publication in the FEDERAL REGISTER or on such later date as may be specified therein.

SEC. 3. Nothing in this Order shall be deemed to (i) authorize the exercise by the Director of the President's authority to waive the requirements of section 13(b) of the Act [50 U.S.C. 3812(b)], or (ii) derogate from the authority of the President himself to waive the requirements of such section 13(b), or (iii) derogate from the authority of the President himself to issue such rules or regulations as he may deem necessary to carry out the provisions of the Act.

### § 3810. Emergency medical care

Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this chapter shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation and burial of the remains of registrants who suffer death, while acting under orders issued under the provisions of this chapter, but such burial expenses shall not exceed the maximum that the Secretary of Veterans Affairs may pay under the

provisions of section 2302(a) of title 38 in any one case.

(June 24, 1948, ch. 625, title I, § 11, 62 Stat. 621; Pub. L. 92-129, title I, § 101(a)(30), Sept. 28, 1971, 85 Stat. 352; Pub. L. 102-54, § 13(t), June 13, 1991, 105 Stat. 282; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

#### CODIFICATION

Section was formerly classified to section 461 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

#### AMENDMENTS

1991—Pub. L. 102-83 substituted "section 2302(a) of title 38" for "section 902(a) of title 38".

Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1971—Pub. L. 92-129 substituted "the maximum that the Administrator of Veterans' Affairs may pay under the provisions of section 902(a) of title 38" for "\$150".

### § 3811. Offenses and penalties

#### (a) In general

Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this chapter, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said chapter, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making, of any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this chapter, or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this chapter, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this chapter, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this chapter, or rules, regulations, or directions made pursuant to this chapter, or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this chapter or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of

not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this chapter unless such person has been actually inducted for the training and service prescribed under this chapter or unless he is subject to trial by court martial under laws in force prior to June 24, 1948.

**(b) Making or possession of false identification or representation; forgery, destruction, or mutilation of certificate; knowing violation or evasion of provisions**

Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this chapter, or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, knowingly destroys, knowingly mutilates, or in any manner changes any such certificate or any notation duly and validly inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this chapter, or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any of the provisions of this chapter or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed \$10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.

**(c) Expeditious prosecution by Department of Justice**

The Department of Justice shall proceed as expeditiously as possible with a prosecution under this section, or with an appeal, upon the request of the Director of Selective Service System or shall advise the House of Representatives and the Senate in writing the reasons for its failure to do so.

**(d) Statute of limitations**

No person shall be prosecuted, tried, or punished for evading, neglecting, or refusing to perform the duty of registering imposed by section

3802 of this title unless the indictment is found within five years next after the last day before such person attains the age of twenty-six, or within five years next after the last day before such person does perform his duty to register, whichever shall first occur.

**(e) Information furnished for purpose of enforcement**

The President may require the Secretary of Health and Human Services to furnish to the Director, from records available to the Secretary, the following information with respect to individuals who are members of any group of individuals required by a proclamation of the President under section 3802 of this title to present themselves for and submit to registration under such section: name, date of birth, social security account number, and address. Information furnished to the Director by the Secretary under this subsection shall be used only for the purpose of the enforcement of this Act.

**(f) Assistance provided under title IV of the Higher Education Act of 1965; failure to register; statement of compliance**

(1) Except as provided in subsection (g), any person who is required under section 3802 of this title to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.].

(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3802 of this title to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3802 of this title and regulations issued thereunder.

(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV [20 U.S.C. 1070 et seq.] for failure to meet the registration requirements of section 3802 of this title and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3802 of this title. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.

**(g) Failure to register; termination or inapplicability of requirement; absence of knowledge and willfulness**

A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3802 of this title if—

(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

(2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.

(June 24, 1948, ch. 625, title I, §12, 62 Stat. 622; Pub. L. 89-152, Aug. 30, 1965, 79 Stat. 586; Pub. L. 90-40, §1(11), June 30, 1967, 81 Stat. 105; Pub. L. 92-129, title I, §101(a)(31), Sept. 28, 1971, 85 Stat. 352; Pub. L. 97-86, title IX, §916(b), Dec. 1, 1981, 95 Stat. 1129; Pub. L. 97-252, title XI, §1113(a), Sept. 8, 1982, 96 Stat. 748; Pub. L. 98-620, title IV, §402(54), Nov. 8, 1984, 98 Stat. 3361; Pub. L. 99-661, div. A, title XIII, §1366, Nov. 14, 1986, 100 Stat. 4002.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this title", meaning title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

This Act, referred to in subsec. (e), is act June 24, 1948, ch. 625, 62 Stat. 604, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section was formerly classified to section 462 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1986—Subsec. (f)(1). Pub. L. 99-661, §1366(1), substituted "Except as provided in subsection (g), any person" for "Any person".

Subsec. (g). Pub. L. 99-661, §1366(2), added subsec. (g).

1984—Subsec. (a). Pub. L. 98-620 struck out sentence at end requiring that precedence be given by courts to the trial of cases arising under this chapter, and that such cases had to be advanced on the docket for immediate hearing, and that an appeal from the decision or decree of any United States district court or United States court of appeals would take precedence over all other cases pending before the court to which the case had been referred.

1982—Subsec. (f). Pub. L. 97-252 added subsec. (f).

1981—Subsec. (e). Pub. L. 97-86 added subsec. (e).

1971—Subsec. (d). Pub. L. 92-129 added subsec. (d).

1967—Subsec. (a). Pub. L. 90-40, §1(11)(a), struck out requirement that a request of the Attorney General precede the granting of precedence to the trial of cases arising under this chapter and inserted provision that appeals from a decision or decree of any United States District Court or United States Court of Appeals take precedence over all other cases pending before the court to which the case has been referred.

Subsec. (c). Pub. L. 90-40, §1(11)(b), added subsec. (c).

1965—Subsec. (b)(3). Pub. L. 89-152 prohibited a person from knowingly destroying or knowingly mutilating any registration certificate or other prescribed certificate.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-252, title XI, §1113(b), Sept. 8, 1982, 96 Stat. 748, provided that: "The amendment made by subsection (a) [amending this section] shall apply to loans, grants, or work assistance under title IV of the Higher Education Act [20 U.S.C. 1070 et seq.] for periods of instruction beginning after June 30, 1983."

PROC. NO. 4313. PROGRAM FOR RETURN OF VIETNAM ERA DRAFT EVADERS AND MILITARY DESERTERS

Proc. No. 4313, Sept. 16, 1974, 39 F.R. 33293, 88 Stat. 2504, as amended by Proc. No. 4345, Jan. 30, 1975, 40 F.R. 4893, 89 Stat. 1236; Proc. No. 4353, Feb. 28, 1975, 40 F.R. 8931, 10433, 89 Stat. 1246, provided:

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen—convicted, charged, investigated or still sought for violations of the Military Selective Service Act [see References in Text note set out under section 3801 of this title] or of the Uniform Code of Military Justice [10 U.S.C. 801 et seq.]—remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgment of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, do hereby proclaim a program to commence immediately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. *Draft Evaders*—An individual who allegedly unlawfully failed under the Military Selective Service Act [see References in Text note set out under section 3801 of this title] or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report for or submit to, or complete service under section 6(j) of such Act [50 U.S.C. 3806(j)] during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

(i) presents himself to a United States Attorney before March 31, 1975,

(ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a

period of alternate service under the auspices of the Director of Selective Service, and

(iii) satisfactorily completes such service.

The alternate service shall promote the national health, safety, or interest. No draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

However, this program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. *Military Deserters*—A member of the armed forces who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, inclusive, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice [10 U.S.C. 885, 886, 887] for such absence and for offenses directly related thereto if before March 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he absented himself or for members of the Coast Guard, with the Secretary of Transportation, pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department, or Secretary of Transportation for members of the Coast Guard, because of mitigating circumstances.

However, if a member of the armed forces has additional outstanding charges pending against him under the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

Each member of the armed forces who elects to seek relief through this program will receive an undesirable discharge. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department or Department of Transportation, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. *Presidential Clemency Board*—By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (i) those who have been convicted of draft evasion offenses as described above, (ii) those who have received a punitive or undesirable discharge from service in the armed forces for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice [10 U.S.C. 885, 886, 887] between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. *Alternate Service*—In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Department, or the

Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD.

PROC. NO. 4483. PARDON FOR VIOLATIONS OF ACT, AUGUST 4, 1964 TO MARCH 28, 1973

Proc. No. 4483, Jan. 21, 1977, 42 F.R. 4391, 91 Stat. 1719, provided:

Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Jimmy Carter, President of the United States, do hereby grant a full, complete and unconditional pardon to: (1) all persons who may have committed any offense between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act [see References in Text note set out under section 3801 of this title] or any rule or regulation promulgated thereunder; and (2) all persons heretofore convicted, irrespective of the date of conviction, of any offense committed between August 4, 1964 and March 28, 1973 in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, restoring to them full political, civil and other rights.

This pardon does not apply to the following who are specifically excluded therefrom:

(1) All persons convicted of or who may have committed any offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, involving force or violence; and

(2) All persons convicted of or who may have committed any offense in violation of the Military Selective Service Act, or any rule or regulation promulgated thereunder, in connection with duties or responsibilities arising out of employment as agents, officers or employees of the Military Selective Service system.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and first.

JIMMY CARTER.

EX. ORD. NO. 11803. CLEMENCY BOARD TO REVIEW CERTAIN CONVICTIONS AND DISCHARGES

Ex. Ord. No. 11803, Sept. 16, 1974, 39 F.R. 33297, as amended by Ex. Ord. No. 11837, Jan. 30, 1975, 40 F.R. 4895; Ex. Ord. No. 11842, Feb. 28, 1975, 40 F.R. 8935; Ex. Ord. No. 11857, May 7, 1975, 40 F.R. 20261; Ex. Ord. No. 11878, Sept. 10, 1975, 40 F.R. 42731, provided:

By virtue of the authority vested in me as President of the United States by Section 2 of Article II of the Constitution of the United States, and in the interest of the internal management of the Government, it is ordered as follows:

SECTION 1. There is hereby established in the Executive Office of the President a board of 9 members, which shall be known as the Presidential Clemency Board. The members of the Board shall be appointed by the President, who shall also designate its Chairman. The President may appoint such additional members to the board as he shall from time to time determine to be necessary to carry out its functions.

SEC. 2. The Board, under such regulations as it may prescribe, shall examine the cases of persons who apply for Executive clemency prior to March 31, 1975, and who (i) have been convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. §462) [now 50 U.S.C. 3811, 3806(j)], or of any rule or regulation promulgated pursuant to that section, for acts committed between August 4, 1964 and March 28, 1973, inclusive,

or (ii) have received punitive or undesirable discharges as a consequence of violations of Articles 85, 86 or 87 of the Uniform Code of Military Justice (10 U.S.C. §§ 885, 886, 887) that occurred between August 4, 1964 and March 28, 1973, inclusive, or are serving sentences of confinement for such violations. The Board will only consider the cases of Military Selective Service Act violators who were convicted of unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of their current address, (iii) to report for or submit to preinduction or induction examination, (iv) to report for or submit to induction itself, or (v) to report for or submit to, or complete service under Section 6(j) of such Act [50 U.S.C. 3806(j)]. However, the Board will not consider the cases of individuals who are precluded from reentering the United States under [former] 8 U.S.C. 182(a)(22) or other law.

SEC. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge. Determination of any period of alternate service shall be in accord with the Proclamation [Proc. No. 4313, set out above] announcing a program for the return of Vietnam era draft evaders and military deserters.

SEC. 4. The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense set forth in section 2 of this order, and who have no outstanding criminal charges.

SEC. 5. Each member of the Board, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Board at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS-18, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

SEC. 6. Necessary expenses of the Board may be paid from the Unanticipated Personnel Needs Fund of the President or from such other funds as may be available.

SEC. 7. Necessary administrative services and support may be provided the Board by the General Services Administration on a reimbursable basis.

SEC. 8. All department and agencies in the Executive branch are authorized and directed to cooperate with the Board in its work, and to furnish the Board all appropriate information and assistance, to the extent permitted by law.

SEC. 9. The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist.

GERALD R. FORD.

EX. ORD. NO. 11804. DELEGATION OF CERTAIN FUNCTIONS OF PRESIDENT TO DIRECTOR OF SELECTIVE SERVICE

Ex. Ord. No. 11804, Sept. 16, 1974, 39 F.R. 33299, provided:

By virtue of the authority vested in me as President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation [Proc. No. 4313, set out above] announcing a program for the return of Vietnam era draft evaders and military deserters.

SEC. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.

GERALD R. FORD.

EX. ORD. NO. 11878. ASSIGNING RESPONSIBILITIES RELATING TO ACTIVITIES OF PRESIDENTIAL CLEMENCY BOARD

Ex. Ord. No. 11878, Sept. 10, 1975, 40 F.R. 42731, provided:

By virtue of the authority vested in me by the Constitution of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 9 of Executive Order No. 11803 of September 16, 1974, as amended [set out above] is amended to read:

"The Board shall submit its final recommendations to the President not later than September 15, 1975, at which time it shall cease to exist."

SEC. 2. Any applications for Executive clemency, as to which the Presidential Clemency Board (established by Executive Order No. 11803) [set out above] has not taken final action shall be transferred, together with the files related thereto, to the Attorney General.

SEC. 3. The Attorney General, with respect to the applications and related files transferred to him by Section 2 of this Order, shall take all actions appropriate or necessary to complete the clemency process and shall expeditiously report to the President his findings and recommendations as to whether Executive clemency should be granted or denied in any case. In performing his responsibilities under this Order, the Attorney General shall apply the relevant criteria and comply with the appropriate and applicable instructions and procedures established by Executive Order No. 11803 of September 16, 1974, as amended [set out above], Proclamation No. 4313 of September 16, 1974, as amended [set out above], Executive Order No. 11804 of September 16, 1974 [set out above], and, to the extent that he deems appropriate, the regulations of the Presidential Clemency Board and the Selective Service System issued pursuant to the foregoing Executive orders.

SEC. 4. The Director of the Office of Management and Budget is hereby designated and empowered to take such action as he deems necessary to ensure the orderly and prompt termination of the activities of the Presidential Clemency Board and the assignment of responsibilities directed by this Order.

SEC. 5. Departments and agencies in the Executive branch shall, to the extent permitted by law, cooperate with and assist the Attorney General, the Director of the Selective Service and the Director of the Office of Management and Budget in the performance of their responsibilities under this Order.

SEC. 6. The responsibilities assigned under this Order are to be completed no later than March 31, 1976, at which time the Attorney General shall submit his final recommendations to the President.

GERALD R. FORD.

EX. ORD. NO. 11967. IMPLEMENTATION OF PARDON FOR VIOLATIONS OF ACT, AUGUST 4, 1964 TO MARCH 28, 1973

Ex. Ord. No. 11967, Jan. 21, 1977, 42 F.R. 4393, provided: The following actions shall be taken to facilitate Presidential Proclamation of Pardon of January 21, 1977 [Proc. No. 4483, set out above]:

1. The Attorney General shall cause to be dismissed with prejudice to the Government all pending indictments for violations of the Military Selective Service Act [see References in Text note set out under section 3801 of this title] alleged to have occurred between August 4, 1964 and March 28, 1973 with the exception of the following:

(a) Those cases alleging acts of force or violence deemed to be so serious by the Attorney General as to warrant continued prosecution; and

(b) Those cases alleging acts in violation of the Military Selective Service Act by agents, employees

or officers of the Selective Service System arising out of such employment.

2. The Attorney General shall terminate all investigations now pending and shall not initiate further investigations alleging violations of the Military Selective Service Act [see References in Text note set out under section 3801 of this title] between August 4, 1964 and March 28, 1973, with the exception of the following:

(a) Those cases involving allegations of force or violence deemed to be so serious by the Attorney General as to warrant continued investigation, or possible prosecution; and

(b) Those cases alleging acts in violation of the Military Selective Service Act by agents, employees or officers of the Selective Service System arising out of such employment.

3. Any person who is or may be precluded from reentering the United States under [former] 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act [see References in Text note set out under section 3801 of this title] shall be permitted as any other alien to reenter the United States.

The Attorney General is directed to exercise his discretion under 8 U.S.C. 1182(d)(5) or other applicable law to permit the reentry of such persons under the same terms and conditions as any other alien.

This shall not include anyone who falls into the exceptions of paragraphs 1(a) and (b) and 2(a) and (b) above.

4. Any individual offered conditional clemency or granted a pardon or other clemency under Executive Order 11803 [set out above] or Presidential Proclamation 4313, dated September 16, 1974 [set out above], shall receive the full measure of relief afforded by this program if they are otherwise qualified under the terms of this Executive Order.

JIMMY CARTER.

### § 3812. Nonapplicability of certain laws

#### (a) Certain provisions in title 18 or Act August 2, 1939

Nothing in sections 203, 205, or 207 of title 18 or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled "An Act to prevent pernicious political activities", as amended, shall be deemed to apply to any person because of his appointment under authority of this chapter or the regulations made pursuant thereto as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections, or as a member of the National Selective Service Appeal Board.

#### (b) Administrative Procedure Act

All functions performed under this chapter shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [5 U.S.C. 551 et seq. and 701 et seq.] except as to the requirements of section 3 of such Act [5 U.S.C. 552]. Notwithstanding the foregoing sentence, no regulation issued under this Act shall become effective until the expiration of thirty days following the date on which such regulation has been published in the Federal Register. After the publication of any regulation and prior to the date on which such regulation becomes effective, any person shall be given an opportunity to submit his views to the Director on such regulation, but no formal hearing shall be required on any such regulation. The require-

ments of this subsection may be waived by the President in the case of any regulation if he (1) determines that compliance with such requirements would materially impair the national defense, and (2) gives public notice to that effect at the time such regulation is issued.

#### (c) Certain provisions of Act June 16, 1936, or Act August 4, 1942; computation of lump-sum payments

In computing the lump-sum payments made to Air Force reserve officers under the provisions of section 2 of the Act of June 16, 1936, as amended and to reserve officers of the Navy or to their beneficiaries under section 12 of the Act of August 4, 1942, as amended, no credit shall be allowed for any period of active service performed from June 24, 1948, to the date on which this chapter shall cease to be effective. Each such lumpsum payment shall be prorated for a fractional part of a year of active service in the case of any reserve officer subject to the provisions of either such section, if such reserve officer performs continuous active service for one or more years (inclusive of such service performed during the period in which this chapter is effective) and such active service includes a fractional part of a year immediately prior to June 24, 1948, or immediately following the date on which this chapter shall cease to be effective, or both.

(June 24, 1948, ch. 625, title I, §13, 62 Stat. 623; June 19, 1951, ch. 144, title I, §1(t), 65 Stat. 87; Pub. L. 88-110, §6, Sept. 3, 1963, 77 Stat. 136; Pub. L. 92-129, title I, §101(a)(32), Sept. 28, 1971, 85 Stat. 353.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Section 9 of the Act of August 2, 1939, referred to in subsec. (a), is section 9 of act Aug. 2, 1939, ch. 410, 53 Stat. 1148, which was classified to section 118i(a) of former title 5, prior to repeal by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378, and reenactment as section 7324(a)(2) of Title 5, Government Organization and Employees. Section 7324 of Title 5 was omitted and a new section 7324 enacted in the general amendment of subchapter III (§7321 et seq.) of chapter 73 of Title 5 by Pub. L. 103-94, §2(a), Oct. 6, 1993, 107 Stat. 1001. See section 7323(b)(2)(A) of Title 5.

The Administrative Procedure Act, referred to in subsec. (b), is act June 11, 1946, ch. 324, 60 Stat. 237, which was classified to sections 1001 to 1011 of former title 5 and which was repealed and reenacted as subchapter II (§551 et seq.) of chapter 5, and chapter 7 (§701 et seq.), of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. See Short Title note preceding section 551 of Title 5.

This Act, referred to in subsec. (b), is act June 24, 1948, ch. 625, 62 Stat. 604, known as the Military Selective Service Act. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of this title and Tables.

Section 2 of the Act of June 16, 1936, referred to in subsec. (c), is section 2 of act June 16, 1936, ch. 587, 49 Stat. 1524, which is not classified to the Code.

Section 12 of the Act of August 4, 1942, referred to in subsec. (c), is section 12 of act Aug. 4, 1942, ch. 547, 56 Stat. 738, which is not classified to the Code.

#### CODIFICATION

Section was formerly classified to section 463 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.