

the purpose of providing legal assistance to an individual eligible for military legal assistance under section 1044 of this title who is the victim of an alleged sex-related offense, regardless of whether the report of that offense is restricted or unrestricted.”

Subsec. (b)(4). Pub. L. 113–291, § 531(c)(1), substituted “the United States” for “the Department of Defense”.

Subsec. (b)(6). Pub. L. 113–291, § 534(a), substituted “Representing the victim” for “Accompanying the victim”.

Subsec. (d)(2). Pub. L. 113–291, § 531(c)(2), inserted “, and within the Marine Corps, by the Staff Judge Advocate to the Commandant of the Marine Corps” before period at end.

Subsec. (e)(1). Pub. L. 113–291, § 531(c)(3), inserted “concerned” after “jurisdiction of the Secretary”.

Subsec. (f). Pub. L. 113–291, § 533(b), substituted “described in subsection (a)(2)” for “eligible for military legal assistance under section 1044 of this title” in pars. (1) and (2).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective immediately after the amendments made by div. E (§§ 5001–5542) of Pub. L. 114–328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115–91, set out as a note under section 801 of this title.

#### SPECIAL VICTIMS’ COUNSEL TRAINING REGARDING THE UNIQUE CHALLENGES OFTEN FACED BY MALE VICTIMS OF SEXUAL ASSAULT

Pub. L. 115–91, div. A, title V, § 536, Dec. 12, 2017, 131 Stat. 1392, provided that: “The baseline Special Victims’ Counsel training established under section 1044e(d)(2) of title 10, United States Code, shall include training for Special Victims’ Counsel to recognize and deal with the unique challenges often faced by male victims of sexual assault.”

#### ENHANCEMENT OF VICTIMS’ RIGHTS IN CONNECTION WITH PROSECUTION OF CERTAIN SEX-RELATED OFFENSES

Pub. L. 113–291, div. A, title V, § 534(b)–(e), Dec. 19, 2014, 128 Stat. 3367, 3368, provided that:

“(b) CONSULTATION REGARDING VICTIM’S PREFERENCE IN PROSECUTION VENUE.—

“(1) CONSULTATION PROCESS REQUIRED.—The Secretary of Defense shall establish a process to ensure consultation with the victim of an alleged sex-related offense that occurs in the United States to solicit the victim’s preference regarding whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense.

“(2) CONVENING AUTHORITY CONSIDERATION OF PREFERENCE.—The preference expressed by the victim of an alleged sex-related offense under paragraph (1) regarding the prosecution of the offense, while not binding, should be considered by the convening authority in making the determination regarding whether to refer the charge or specification for the offense to a court-martial for trial.

“(3) NOTICE TO APPROPRIATE JURISDICTION OF VICTIM’S PREFERENCE FOR CIVILIAN PROSECUTION.—If the victim of an alleged sex-related offense expresses a preference under paragraph (1) for prosecution of the offense in a civilian court, the convening authority described in paragraph (2) shall ensure that the civilian authority with jurisdiction over the offense is notified of the victim’s preference for civilian prosecution.

“(4) NOTICE TO VICTIM OF STATUS OF CIVILIAN PROSECUTION WHEN VICTIM EXPRESSES PREFERENCE FOR CIVILIAN PROSECUTION.—Following notification of the civilian authority with jurisdiction over an alleged sex-related offense of the preference of the victim of the offense for prosecution of the offense in a civilian court, the convening authority shall be responsible for notifying the victim if the convening authority

learns of any decision by the civilian authority to prosecute or not prosecute the offense in a civilian court.

“(c) MODIFICATION OF MANUAL FOR COURTS-MARTIAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], Part III of the Manual for Courts-Martial shall be modified to provide that when a victim of an alleged sex-related offense has a right to be heard in connection with the prosecution of the alleged sex-related such offense, the victim may exercise that right through counsel, including through a Special Victims’ Counsel under section 1044e of title 10, United States Code (as amended by subsection (a)).

“(d) NOTICE TO COUNSEL ON SCHEDULING OF PROCEEDINGS.—The Secretary concerned shall establish policies and procedures designed to ensure that any counsel of the victim of an alleged sex-related offense, including a Special Victims’ Counsel under section 1044e of title 10, United States Code (as amended by subsection (a)), is provided prompt and adequate notice of the scheduling of any hearing, trial, or other proceeding in connection with the prosecution of such offense in order to permit such counsel the opportunity to prepare for such proceeding.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘alleged sex-related offense’ has the meaning given that term in section 1044e(g) of title 10, United States Code.

“(2) The term ‘Secretary concerned’ has the meaning given that term in section 101(a)(9) of such title.”

#### IMPLEMENTATION

Pub. L. 113–66, div. A, title XVII, § 1716(a)(4), Dec. 26, 2013, 127 Stat. 969, provided that: “Section 1044e of title 10, United States Code, as added by paragraph (1), shall be implemented within 180 days after the date of the enactment of this Act [Dec. 26, 2013].”

#### ENHANCED TRAINING REQUIREMENT

Pub. L. 113–66, div. A, title XVII, § 1716(b), Dec. 26, 2013, 127 Stat. 969, provided that: “The Secretary of each military department, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall implement, consistent with the guidelines provided under section 1044e of title 10, United States Code, as added by subsection (a), in-depth and advanced training for all military and civilian attorneys providing legal assistance under section 1044 or 1044e of such title to support victims of alleged sex-related offenses.”

#### § 1045. Voluntary withholding of State income tax from retired or retainer pay

(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar month shall be retained by the Secretary concerned and disbursed to the States during the following calendar month.

(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Sec-

retary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

(e) In this section:

(1) The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) The term “Secretary concerned” includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98-525, title VI, § 654(a), Oct. 19, 1984, 98 Stat. 2551; amended Pub. L. 100-26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109-163, div. A, title VI, § 661, Jan. 6, 2006, 119 Stat. 3314.)

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163, in third sentence, substituted “any calendar month” for “any calendar quarter” and “during the following calendar month” for “during the month following that calendar quarter”.

1987—Subsec. (e)(1), (2). Pub. L. 100-26 inserted “The term” after each par. designation.

#### § 1046. Overseas temporary foster care program

(a) PROGRAM AUTHORIZED.—The Secretary concerned may establish a program to provide temporary foster care services outside the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.

(Added Pub. L. 102-484, div. A, title VI, § 651(a), Oct. 23, 1992, 106 Stat. 2425.)

#### PRIOR PROVISIONS

A prior section 1046, added Pub. L. 98-525, title VII, § 708(a)(1), Oct. 19, 1984, 98 Stat. 2572, related to pre-separation counseling, prior to repeal by Pub. L. 101-510, div. A, title V, § 502(b)(1), Nov. 5, 1990, 104 Stat. 1557.

#### § 1047. Allowance for civilian clothing

(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing and luggage to a member at a cost not to exceed \$250, or reimburse a member for the purchase of civilian clothing and luggage in an amount not to exceed \$250, in the case of a member who—

(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.

(b) CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than \$40, to an enlisted member who is—

(1) discharged for misconduct or unsuitability or under conditions other than honorable;

(2) sentenced by a civil court to confinement in a prison;

(3) interned or discharged as an alien enemy; or

(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

(Added Pub. L. 98-525, title XIV, § 1401(d)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 108-375, div. A, title V, § 584(a), Oct. 28, 2004, 118 Stat. 1929; Pub. L. 110-181, div. A, title VI, § 634, Jan. 28, 2008, 122 Stat. 155.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8024], 98 Stat. 1904, 1928.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 727, 97 Stat. 1443.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 730], 96 Stat. 1833, 1855.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 730, 95 Stat. 1584.

Dec. 15, 1980, Pub. L. 96-527, title VII, § 731, 94 Stat. 3086.

Dec. 21, 1979, Pub. L. 96-154, title VII, § 731, 93 Stat. 1157.

Oct. 13, 1978, Pub. L. 95-457, title VIII, § 831, 92 Stat. 1249.

Sept. 21, 1977, Pub. L. 95-111, title VIII, § 830, 91 Stat. 905.

Sept. 22, 1976, Pub. L. 94-419, title VII, § 730, 90 Stat. 1296.

Feb. 9, 1976, Pub. L. 94-212, title VII, § 730, 90 Stat. 173.

Oct. 8, 1974, Pub. L. 93-437, title VIII, § 831, 88 Stat. 1230.

Jan. 2, 1974, Pub. L. 93-238, title VII, § 732, 87 Stat. 1044.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 732, 86 Stat. 1201.