

(Added Pub. L. 98–94, title X, §1007(b)(1), Sept. 24, 1983, 97 Stat. 662.)

#### § 1044. Legal assistance

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to the following persons:

(1) Members of the armed forces who are on active duty.

(2) Members and former members entitled to retired or retainer pay or equivalent pay.

(3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

(4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).

(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or

of the highest court of a State and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, satisfies the additional qualifications and training requirements specified in subsection (d) of such section.

(3) In this subsection, the term "military legal assistance" includes—

(A) legal assistance provided under this section; and

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, 1044d, 1044e, 1565b(a)(1)(A), and 2894(b)(4) of this title.

(e) The Secretary concerned shall define "dependent" for the purposes of this section.

(Added Pub. L. 98–525, title VI, §651(a), Oct. 19, 1984, 98 Stat. 2549; amended Pub. L. 104–201, div. A, title V, §583, Sept. 23, 1996, 110 Stat. 2538; Pub. L. 106–398, §1 [[div. A], title V, §524(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 109–163, div. A, title V, §555, Jan. 6, 2006, 119 Stat. 3265; Pub. L. 110–181, div. A, title V, §541, Jan. 28, 2008, 122 Stat. 114; Pub. L. 111–84, div. A, title V, §513, Oct. 28, 2009, 123 Stat. 2282; Pub. L. 112–239, div. A, title V, §531(d)(2), Jan. 2, 2013, 126 Stat. 1726; Pub. L. 113–66, div. A, title XVII, §1716(a)(3)(A), (B), Dec. 26, 2013, 127 Stat. 969; Pub. L. 113–291, div. A, title X, §1071(f)(12), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–92, div. A, title V, §535(c), Nov. 25, 2015, 129 Stat. 816; Pub. L. 116–92, div. B, title XXX, §3022(b), Dec. 20, 2019, 133 Stat. 1934.)

#### AMENDMENTS

2019—Subsec. (d)(3)(B). Pub. L. 116–92 substituted "1565b(a)(1)(A), and 2894(b)(4)" for "and 1565b(a)(1)(A)".

2015—Subsec. (d)(2). Pub. L. 114–92 substituted "satisfies the additional qualifications and training requirements specified in subsection (d)" for "meets the additional qualifications specified in subsection (d)(2)".

2014—Subsec. (d)(2). Pub. L. 113–291 substituted "such section." for "such section..".

2013—Subsec. (b). Pub. L. 112–239 inserted "and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps," after "jurisdiction of the Secretary".

Subsec. (d)(2). Pub. L. 113–66, §1716(a)(3)(A), inserted before period at end "and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, meets the additional qualifications specified in subsection (d)(2) of such section."

Subsec. (d)(3)(B). Pub. L. 113–66, §1716(a)(3)(B), substituted "1044d, 1044e, and 1565b(a)(1)(A)" for "and 1044d".

2009—Subsec. (a)(4). Pub. L. 111–84 substituted "the Secretary), for a period of time (prescribed by the Secretary)" for "the Secretary of Defense, for a period of time, prescribed by the Secretary of Defense,".

2008—Subsec. (a)(6), (7). Pub. L. 110–181 added pars. (6) and (7).

2006—Subsecs. (d), (e). Pub. L. 109–163 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Subsec. (a)(4). Pub. L. 106–398, §1 [[div. A], title V, §524(a)(2)], added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 106–398, §1 [[div. A], title V, §524(b)], substituted "(3), and (4)" for "and (3)".

Pub. L. 106–398, §1 [[div. A], title V, §524(a)(1)], redesignated par. (4) as (5).

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].”

#### LEGAL COUNSEL FOR VICTIMS OF ALLEGED DOMESTIC VIOLENCE OFFENSES

Pub. L. 116-92, div. A, title V, § 548, Dec. 20, 2019, 133 Stat. 1378, provided that:

“(a) IN GENERAL.—Not later than December 1, 2020, the Secretary of Defense shall carry out a program to provide legal counsel (referred to in this section as ‘Counsel’) to victims of alleged domestic violence offenses who are otherwise eligible for military legal assistance under section 1044 of title 10, United States Code.

“(b) FORM OF IMPLEMENTATION.—The program required under subsection (a) may be carried out as part of another program of the Department of Defense or through the establishment of a separate program.

“(c) TRAINING AND TERMS.—The Secretary of Defense shall ensure that Counsel—

“(1) receive specialized training in legal issues commonly associated with alleged domestic violence offenses; and

“(2) to the extent practicable, serve as Counsel for a period of not less than 2 years.

“(d) ATTORNEY-CLIENT RELATIONSHIP.—The relationship between a Counsel and a victim in the provision of legal advice and assistance shall be the relationship between an attorney and client.

“(e) PARALEGAL SUPPORT.—The Secretary of Defense shall ensure that sufficient trained paralegal support is provided to Counsel under the program.

“(f) REPORT REQUIRED.—

“(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the program under subsection (a).

“(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

“(A) A description and assessment of the manner in which the Department of Defense will implement the program required under subsection (a).

“(B) An explanation of whether the program will be carried out as part of another program of the Department or through the establishment of a separate program.

“(C) A comprehensive description of the additional personnel, resources, and training that will be required to implement the program, including identification of the specific number of additional billets that will be needed to staff the program.

“(D) Recommendations for any modifications to law that may be necessary to effectively and efficiently implement the program.

“(g) ALLEGED DOMESTIC VIOLENCE OFFENSE DEFINED.—In this section, the term ‘alleged domestic violence offense’ means any allegation of—

“(1) a violation of section 928(b), 928b(1), 928b(5), or 930 of title 10, United States Code (article 128(b), 128b(1), 128b(5), or 130 of the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member;

“(2) a violation of any other provision of subchapter X of chapter 47 of such title (the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member; or

“(3) an attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of such title (article 80 of the Uniform Code of Military Justice).”

#### § 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).