

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-190 substituted “section 576” for “section 560”.

1980—Subsec. (a). Pub. L. 96-513 provided that officers discharged under this section are entitled, if eligible therefor, to separation pay under section 1174 or severance pay under section 286a of title 14.

1962—Subsec. (a). Pub. L. 87-649 substituted “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)” for “section 311 of title 37.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1167. Members under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the member has served in confinement for a period of six months.

(Added Pub. L. 104-106, div. A, title V, § 563(a)(1)(A), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 104-201, div. A, title X, § 1074(a)(6), Sept. 23, 1996, 110 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1167, acts Aug. 10, 1956, ch. 1041, 70A Stat. 91; June 28, 1962, Pub. L. 87-509, § 4(a), 76 Stat. 121; Sept. 7, 1962, Pub. L. 87-649, § 6(f)(3), 76 Stat. 494, related to severance pay of regular warrant officers, prior to repeal by Pub. L. 96-513, title I, § 109(b)(3), title VII, § 701, Dec. 12, 1980, 94 Stat. 2870, 2955, effective Sept. 15, 1981.

AMENDMENTS

1996—Pub. L. 104-201 substituted “member has served” for “person has served”.

§ 1168. Discharge or release from active duty: limitations

(a) A member of an armed force may not be discharged or released from active duty until his discharge certificate or certificate of release from active duty, respectively, and his final pay or a substantial part of that pay, are ready for delivery to him or his next of kin or legal representative.

(b) This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care.

(Added Pub. L. 87-651, title I, § 106(b), Sept. 7, 1962, 76 Stat. 508; amended Pub. L. 101-189, div.

A, title XVI, § 1621(a)(4), Nov. 29, 1989, 103 Stat. 1603.)

HISTORICAL AND REVISION NOTES

The new section 1168 of title 10 is transferred from section 1218(a) and (c) of title 10 as being more appropriate in the chapter on separation.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-189 substituted “facility of the Department of Veterans Affairs” for “Veterans' Administration facility”.

MACHINE READABILITY AND ELECTRONIC TRANSFERABILITY OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)

Pub. L. 116-92, div. A, title V, § 569, Dec. 20, 2019, 133 Stat. 1397, provided that:

“(a) MODIFICATION REQUIRED.—The Secretary of Defense shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) to—

“(1) be machine readable and electronically transferable; and

“(2) include a specific block explicitly identified as the location in which a member of the Armed Forces may provide one or more email addresses by which the member may be contacted after discharge or release from active duty.

“(b) DEADLINE FOR MODIFICATION.—The Secretary of Defense shall release a revised Certificate of Release or Discharge from Active Duty (DD Form 214), modified pursuant to subsection (a), not later than four years after the date of the enactment of this Act [Dec. 20, 2019].

“(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report to Congress regarding the following:

“(1) What systems of the Department of Defense require an individual to manually enter information from DD Form 214.

“(2) What activities of the Department of Defense require a veteran or former member of the Armed Forces to provide a physical copy of DD Form 214.

“(3) The order of priority for modernizing items identified under paragraphs (1) and (2) as determined by the Secretary.

“(4) The estimated cost, as determined by the Secretary, to automate items identified under paragraphs (1) and (2).”

MODIFICATION OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)

Pub. L. 110-181, div. A, title V, § 596, Jan. 28, 2008, 122 Stat. 139, provided that: “The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect that the DD-214 issued with regard to the member be forwarded to the following:

“(1) The Central Office of the Department of Veterans Affairs in the District of Columbia.

“(2) The appropriate office of the Department of Veterans Affairs for the State or other locality in which the member will first reside after such discharge or release.”

§ 1169. Regular enlisted members: limitations on discharge

No regular enlisted member of an armed force may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary concerned;

(2) by sentence of a general or special court martial; or

(3) as otherwise provided by law.

(Added Pub. L. 90-235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

§ 1170. Regular enlisted members: minority discharge

Upon application by the parents or guardian of a regular enlisted member of an armed force to the Secretary concerned within 90 days after the member's enlistment, the member shall be discharged for his own convenience, with the pay and form of discharge certificate to which his service entitles him, if—

(1) there is evidence satisfactory to the Secretary concerned that the member is under eighteen years of age; and

(2) the member enlisted without the written consent of his parent or guardian.

(Added Pub. L. 90-235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

§ 1171. Regular enlisted members: early discharge

Under regulations prescribed by the Secretary concerned and approved by the President, any regular enlisted member of an armed force may be discharged within one year before the expiration of the term of his enlistment or extended enlistment. A discharge under this section does not affect any right, privilege, or benefit that a member would have had if he completed his enlistment or extended enlistment, except that the member is not entitled to pay and allowances for the period not served.

(Added Pub. L. 90-235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757; amended Pub. L. 112-81, div. A, title V, §525, Dec. 31, 2011, 125 Stat. 1401.)

AMENDMENTS

2011—Pub. L. 112-81 substituted “within one year” for “within three months”.

EX. ORD. NO. 11498. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE

Ex. Ord. No. 11498, Dec. 1, 1969, 34 F.R. 19125, provided: By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered that the Secretary of Defense is hereby designated and empowered to approve regulations issued by the Secretaries concerned under section 1171 of title 10, United States Code, effective January 2, 1968, which relate to the early discharge of regular enlisted members of the armed forces.

RICHARD NIXON.

§ 1172. Enlisted members: during war or emergency; discharge

A person enlisted under section 518 of this title may be discharged at any time by the President, or otherwise according to law.

(Added Pub. L. 90-235, §3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

§ 1173. Enlisted members: discharge for hardship

Under regulations prescribed by the Secretary concerned, a regular enlisted member of an armed force who has dependents may be discharged for hardship.

(Added Pub. L. 93-64, title I, §102, July 9, 1973, 87 Stat. 147.)

EFFECTIVE DATE

Section effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1174. Separation pay upon involuntary discharge or release from active duty

(a) REGULAR OFFICERS.—(1) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter) or under section 580 or 8372 of this title and who has completed six or more, but less than twenty, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1).

(2) A regular commissioned officer of the Army, Navy, Air Force, or Marine Corps who is discharged under section 630(1)(A), 643, or 1186 of this title, and a regular warrant officer of the Army, Navy, Air Force, or Marine Corps who is separated under section 1165 or 1166 of this title, who has completed six or more, but less than twenty, years of active service immediately before that discharge or separation is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary of the military department concerned, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant payment of such pay.

(3) Notwithstanding paragraphs (1) and (2), an officer discharged under any provision of chapter 36 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if either (or both) of those failures of selection for promotion was by the action of a selection board to which the officer submitted a request in writing not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.

(4) Notwithstanding paragraphs (1) and (2), an officer who is subject to discharge under any provision of chapter 36 of this title or under section 580 or 8372 of this title by reason of having twice failed of selection for promotion to the next higher grade is not entitled to separation pay under this section if that officer, after such second failure of selection for promotion, is selected for, and declines, continuation on active duty for a period that is equal to or more than the amount of service required to qualify the officer for retirement.

(b) REGULAR ENLISTED MEMBERS.—(1) A regular enlisted member of an armed force who is discharged involuntarily or as the result of the denial of the reenlistment of the member and who has completed six or more, but less than 20, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d) unless the Secretary concerned determines that the conditions under which the member is discharged do not warrant payment of such pay.

(2) Separation pay of an enlisted member shall be computed under paragraph (1) of subsection (d), except that such pay shall be computed under paragraph (2) of such subsection in the case of a member who is discharged under criteria prescribed by the Secretary of Defense.