

ber of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

- (1) initial grade as a reserve officer;
- (2) rank in grade; and
- (3) service in grade for promotion eligibility.

(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.

(Added §596b and renumbered §12207, Pub. L. 103-337, div. A, title XVI, §§1634, 1662(c)(2), Oct. 5, 1994, 108 Stat. 2965, 2990; amended Pub. L. 109-163, div. A, title V, §515(b)(1)(LL), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110-181, div. A, title V, §512, Jan. 28, 2008, 122 Stat. 98; Pub. L. 115-91, div. A, title V, §512(a), Dec. 12, 2017, 131 Stat. 1376; Pub. L. 115-232, div. A, title V, §502(b), Aug. 13, 2018, 132 Stat. 1739; Pub. L. 116-283, div. A, title V, §502(b), Jan. 1, 2021, 134 Stat. 3564.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3353, 5600, and 8353 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (c)(1) and Pub. L. 104-106, §1501(c)(26).

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-283, §502(b)(1), substituted “and who has special training or experience, or advanced education (if applicable),” for “or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training,” in introductory provisions. Amendment was executed to reflect the probable intent of Congress due to omission of words “by striking” in directory language.

Subsec. (b)(1)(D). Pub. L. 116-283, §502(b)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: “Additional credit for special training or experience in a particular officer career field as des-

ignated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned.”

2018—Subsec. (b)(1)(D). Pub. L. 115-232, §502(b)(1)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: “Additional credit, in unusual cases, based on special experience in a particular field.”

Subsec. (b)(3). Pub. L. 115-232, §502(b)(1)(B), added par. (3) and struck out former par. (3) which read as follows: “Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of officers covered by paragraph (2), the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.”

Subsecs. (e) to (g). Pub. L. 115-232, §502(b)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively, substituted “or (d)” for “, (d), or (e)” in introductory provisions of subsec. (e), and struck out former subsec. (e) which related to constructive service credited to commissioned officers with cyberspace-related experience or advanced education in reserve active-status.

2017—Subsec. (a)(2). Pub. L. 115-91, §512(a)(1), inserted “or (e)” after “subsection (b)”.

Subsec. (e). Pub. L. 115-91, §512(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 115-91, §512(a)(2), (4), redesignated subsec. (e) as (f) and substituted “, (d), or (e)” for “or (d)”. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115-91, §512(a)(2), redesignated subsec. (f) as (g).

2008—Subsec. (b)(2). Pub. L. 110-181, §512(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant.”

Subsec. (b)(3). Pub. L. 110-181, §512(b), substituted “officers covered by paragraph (2)” for “a medical or dental officer”.

2006—Subsec. (b)(2). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 596b of this title as this section.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

ANNUAL REPORT

For provisions requiring submission to Congress of reports on the use of the authorities in subsec. (b)(1)(D) of this section, see section 502(c) of Pub. L. 116-283, set out as a note under section 533 of this title.

§ 12208. Officers: appointment upon transfer

(a) A person who would otherwise be required to be transferred to a reserve component under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.), is entitled, if he is qualified and accepted, to be appointed as an officer of any armed force that he chooses and to participate in the programs au-

thorized for that armed force. However, unless the two Secretaries concerned consent, he may not be appointed as a Reserve of an armed force other than that from which he is transferred. All periods of his participation shall be credited against the total period of service required of him under section 651 of this title or under the Military Selective Service Act (50 U.S.C. 3801 et seq.). However, no period may be credited more than once.

(b) A person covered by subsection (a) shall perform the rest of his required term of service in the armed force in which he is so appointed or in any other armed force in which he is later appointed or enlisted.

(c) This section does not change any term of service under an appointment, enlistment, or agreement, including an agreement made before or at the time when the member entered upon a program authorized by an armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §595; Pub. L. 96-513, title V, §511(17), Dec. 12, 1980, 94 Stat. 2921; renumbered §12208, Pub. L. 103-337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 114-328, div. A, title X, §1081(b)(1)(A)(ix), Dec. 23, 2016, 130 Stat. 2418.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 595(a) | 50:929(a) (less 2d sentence, less applicability to enlistments). | July 9, 1952, ch. 608, §209 (less applicability to enlistments), 66 Stat. 484. |
| 595(b) | 50:929(a) (2d sentence, and less applicability to enlistments). | |
| 595(c) | 50:929(b) (less applicability to enlistments). | |

In subsection (a), the words “is entitled * * * to be appointed as an officer of any armed force that he chooses” are substituted for the words “shall be permitted to * * * accept an appointment in such armed force of the United States as he may elect”. The last sentence is substituted for 50:929(a) (words within parentheses). The words “of an armed force of the United States” are omitted as surplusage.

In subsection (b), the word “rest” is substituted for the words “remaining period”. The words “be required to” are omitted as surplusage.

In subsection (c), the words “This section does not” are substituted for the words “Nothing in this section shall be construed”. The word “change” is substituted for the words “reduce, limit, or modify”. The words “which any person may undertake to perform” are omitted as surplusage.

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), is title I of act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 3801 of Title 50 and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328 substituted “(50 U.S.C. 3801 et seq.)” for “(50 U.S.C. App. 451 et seq.)” in two places.

1994—Pub. L. 103-337 renumbered section 595 of this title as this section.

1980—Subsec. (a). Pub. L. 96-513 substituted “the Military Selective Service Act (50 U.S.C. App. 451 et seq.)” for “sections 451-473 of title 50, appendix” wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 12209. Officer candidates: enlisted Reserves

(a) Within such numbers as the Secretary concerned may prescribe, enlisted Reserves may, with their consent, be selected for training as officer candidates. Enlisted Reserves so selected shall be designated as officer candidates during that training. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be so selected or designated unless—

- (1) he is on active duty; or
- (2) the governor or other appropriate authority of the jurisdiction concerned consents.

(b) The enlistment or term of service of a Reserve who is designated as an officer candidate under this section is extended to include any period, beyond its normal expiration date, during which he is an officer candidate.

(c) While he is on active duty, other than active duty for training without pay, or performing authorized travel to and from that duty, an officer candidate designated under this section is entitled to the pay and allowances of his enlisted grade, but not less than those prescribed for pay grade E-2.

(d) An officer candidate designated under this section may not participate in the program of a reserve officer training corps of any armed force.

(Aug. 10, 1956, ch. 1041, 70A Stat. 26, §600; renumbered §12209, Pub. L. 103-337, div. A, title XVI, §1662(c)(3), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 104-106, div. A, title XV, §1501(b)(12)(A), Feb. 10, 1996, 110 Stat. 496.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 600(a) | 50:935(a). | July 9, 1952, ch. 608, §§215(a), 230, 242, 66 Stat. 486, 489, 492. |
| 600(b) | 50:954(a). | |
| 600(c) | 50:973. | |
| 600(d) | 50:954(b). | |

In subsection (a), the words “who is not in active Federal service” are substituted for the words “when not in the active military service of the United States”. The word “during” is substituted for the words “for the period of”.

In subsection (c), the words “active duty other than active duty for training without pay” are substituted for the words “active duty or active duty for training with pay”. The words “enlisted members of the reserve components designated as”, “enlisted”, and “under the Career Compensation Act of 1949, as amended” are omitted as surplusage.

AMENDMENTS

1996—Pub. L. 104-106 substituted “candidates: enlisted Reserves” for “candidates” in section catchline.

1994—Pub. L. 103-337 renumbered section 600 of this title as this section.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.