

CODIFICATION

Section was formerly classified to section 522 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 202 of act Oct. 17, 1940, ch. 888, art. II, 54 Stat. 1181, related to fines and penalties on contracts, prior to the general amendment of this Act by Pub. L. 108-189. See section 3933 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 inserted “, including any child custody proceeding,” after “civil action or proceeding” in introductory provisions.

2004—Subsec. (a). Pub. L. 108-454 inserted “plaintiff or” before “defendant” in introductory provisions.

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

STAY OF JUDICIAL PROCEEDINGS

Pub. L. 102-12, § 6, Mar. 18, 1991, 105 Stat. 37, provided that:

“(a) **STAY OF ACTION OR PROCEEDING.**—In any judicial action or proceeding (other than a criminal proceeding) in which a member of the Armed Forces described in subsection (b) is involved (either as plaintiff or defendant), the court shall, upon application by such member (or some other person on the member’s behalf) at any stage before final judgment is entered, stay the action or proceeding until a date after June 30, 1991.

“(b) **MEMBERS COVERED.**—A member of the Armed Forces is covered by subsection (a) if at the time of application for the stay of a judicial action or proceeding the member—

“(1) is on active duty; and

“(2) is serving outside the State in which the court having jurisdiction over the action or proceeding is located.

“(c) **DEFINITION.**—For purposes of this section, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.”

§ 3933. Fines and penalties under contracts**(a) Prohibition of penalties**

When an action for compliance with the terms of a contract is stayed pursuant to this chapter, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

(b) Reduction or waiver of fines or penalties

If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

(1) the servicemember was in military service at the time the fine or penalty was incurred; and

(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

(Oct. 17, 1940, ch. 888, title II, § 203, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2843.)

CODIFICATION

Section was formerly classified to section 523 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 203 of act Oct. 17, 1940, ch. 888, art. II, 54 Stat. 1181, related to stay or vacation of execution of judgments and attachments, prior to the general amendment of this Act by Pub. L. 108-189. See section 3934 of this title.

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3934. Stay or vacation of execution of judgments, attachments, and garnishments**(a) Court action upon material affect determination**

If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

(1) stay the execution of any judgment or order entered against the servicemember; and

(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

(b) Applicability

This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember’s military service or within 90 days after such service terminates.

(Oct. 17, 1940, ch. 888, title II, § 204, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2843.)

CODIFICATION

Section was formerly classified to section 524 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 204 of act Oct. 17, 1940, ch. 888, art. II, 54 Stat. 1181, related to duration and term of stays and codefendants not in service, prior to the general amendment of this Act by Pub. L. 108-189. See section 3935 of this title.

EFFECTIVE DATE

Section applicable to any case not final before Dec. 19, 2003, see section 3 of Pub. L. 108-189, set out as a note under section 3901 of this title.

§ 3935. Duration and term of stays; codefendants not in service**(a) Period of stay**

A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this chapter by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

(b) Codefendants

If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this chapter, the plaintiff may proceed against those other defendants with the approval of the court.