

Sec.

710. Career flexibility to enhance retention of members.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232, div. A, title V, § 551(b)(1), Aug. 13, 2018, 132 Stat. 1768, added item 710.

2016—Pub. L. 114-328, div. A, title V, §§ 521(b)(2), 522(b), Dec. 23, 2016, 130 Stat. 2115, 2116, added items 704a and 709a.

2011—Pub. L. 111-383, div. A, title V, § 532(b), Jan. 7, 2011, 124 Stat. 4216, added item 705a.

2003—Pub. L. 108-136, div. A, title VI, § 621(b)(2), Nov. 24, 2003, 117 Stat. 1505, struck out “enlisted” before “members” in item 705.

2002—Pub. L. 107-314, div. A, title V, §§ 506(d), 572(b), 574(b)(2)(B), Dec. 2, 2002, 116 Stat. 2536, 2558, substituted “Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas” for “Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas” in item 705, added items 706, 707a, and 709, and struck out former item 706 “Administration of leave required to be taken pending review of certain court-martial convictions”.

1984—Pub. L. 98-525, title VII, § 707(a)(2), Oct. 19, 1984, 98 Stat. 2572, added item 708.

1981—Pub. L. 97-81, § 2(b)(2), Nov. 20, 1981, 95 Stat. 1087, added items 706 and 707.

1980—Pub. L. 96-579, § 5(b)(2), Dec. 23, 1980, 94 Stat. 3367, added item 705.

Statutory Notes and Related Subsidiaries

PILOT PROGRAMS ON CAREER FLEXIBILITY TO ENHANCE RETENTION OF MEMBERS OF THE ARMED FORCES

Pub. L. 110-417, [div. A], title V, § 533, Oct. 14, 2008, 122 Stat. 4449, as amended by Pub. L. 112-81, div. A, title V, § 531, title VI, § 631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1403, 1465; Pub. L. 112-239, div. A, title V, § 522, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1722, 1948; Pub. L. 113-291, div. A, title V, § 522, Dec. 19, 2014, 128 Stat. 3360; Pub. L. 114-92, div. A, title V, § 523, Nov. 25, 2015, 129 Stat. 812, which related to pilot programs under which active members of the Armed Forces could be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation, was repealed by Pub. L. 115-232, div. A, title V, § 551(b)(2), Aug. 13, 2018, 132 Stat. 1769. See section 710 of this title.

§ 701. Entitlement and accumulation

(a) A member of an armed force is entitled to leave at the rate of 2½ calendar days for each month of active service, excluding periods of—

- (1) absence from duty without leave;
- (2) absence over leave;
- (3) confinement as the result of a sentence of a court-martial; and
- (4) leave required to be taken under section 876a of this title.

Full-time training, or other full-time duty for a period of more than 29 days, performed under section 316, 502, 503, 504, or 505 of title 32 by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, and for which he is entitled to pay, is active service for the purposes of this section.

(b) Except as provided in subsections (d), (f), and (g), a member may not accumulate more than 60 days' leave. However, leave taken during

a fiscal year may be charged to leave accumulated during that fiscal year without regard to this limitation.

(c) A member who retired after August 9, 1946, who is continued on, or is recalled to active duty, may have his leave which accumulated during his service before retirement carried over to his period of service after retirement.

(d) Notwithstanding subsection (b), during the period beginning on October 1, 2008, through September 30, 2015, a member may accumulate up to 75 days of leave.

(e) Leave taken before discharge is considered to be active service.

(f)(1)(A) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize a member described in subparagraph (B) who, except for this paragraph, would lose at the end of the fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), to retain an accumulated total of 120 days leave.

(B) This subsection applies to a member who—

(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37;

(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.

(C) Except as provided in paragraph (2), leave in excess of the days of leave authorized to be accumulated under subsection (b) or (d) that are accumulated under this paragraph is lost unless it is used by the member before the end of the third fiscal year (or fourth fiscal year, if accumulated while subsection (d) is in effect) after the fiscal year in which the continuous period of service referred to in subparagraph (B) terminated.

(2) Under the uniform regulations referred to in paragraph (1), a member of an armed force who serves on active duty in a duty assignment in support of a contingency operation during a fiscal year and who, except for this paragraph, would lose at the end of that fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), shall be permitted to retain such leave until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated.

(g) A member who is in a missing status, as defined in section 551(2) of title 37, accumulates leave without regard to the limitations in subsections (b), (d), and (f). Notwithstanding the death of a member while in a missing status, he continues to earn leave through the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of title 37.

Leave accumulated while in missing status shall be accounted for separately. It may not be taken, but shall be paid for under section 501(h)

of title 37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than 150 days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of 150 days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37.

(h) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.

(i)(1)(A) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the birth of a child is allowed up to twelve weeks of total leave, including up to six weeks of medical convalescent leave, to be used in connection with such birth.

(B) Under the regulations prescribed for purposes of this subsection, a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the adoption of a child is allowed up to six weeks of total leave to be used in connection with such adoption.

(2) Paragraph (1) applies to the following members:

(A) A member on active duty.

(B) A member of a reserve component performing active Guard and Reserve duty.

(C) A member of a reserve component subject to an active duty recall or mobilization order in excess of 12 months.

(3) The Secretary shall prescribe in the regulations referred to in paragraph (1) a definition of the term "primary caregiver" for purposes of this subsection.

(4) Notwithstanding paragraph (1)(A), a member may receive more than six weeks of medical convalescent leave in connection with the birth of a child, but only if the additional medical convalescent leave—

(A) is specifically recommended, in writing, by the medical provider of the member to address a diagnosed medical condition; and

(B) is approved by the commander of the member.

(5) Any leave taken by a member under this subsection, including leave under paragraphs (1) and (4), may be taken in more than one increment in connection with such birth or adoption in accordance with regulations prescribed by the Secretary concerned.

(6)(A) Any leave authorized by this subsection that is not taken within one year of such birth or adoption shall be forfeited.

(B) Any leave authorized by this subsection for a member of a reserve component on active duty that is not taken by the time the member is separated from active duty shall be forfeited at that time.

(7) The period of active duty of a member of a reserve component may not be extended in order to permit the member to take leave authorized by this subsection.

(8) Under the regulations prescribed for purposes of this subsection, a member taking leave under paragraph (1) may, as a condition for taking such leave, be required—

(A) to accept an extension of the member's current service obligation, if any, by one week for every week of leave taken under paragraph (1); or

(B) to incur a reduction in the member's leave account by one week for every week of leave taken under paragraph (1).

(9)(A) Leave authorized by this subsection is in addition to any other leave provided under other provisions of this section.

(B) Medical convalescent leave under paragraph (4) is in addition to any other leave provided under other provisions of this subsection.

(10)(A) Subject to subparagraph (B), a member taking leave under paragraph (1) during a period of obligated service shall not be eligible for terminal leave, or to sell back leave, at the end of such period of obligated service.

(B) Under the regulations for purposes of this subsection, the Secretary concerned may waive, whether in whole or in part, the applicability of subparagraph (A) to a member who reenlists at the end of the member's period of obligated service described in that subparagraph if the Secretary determines that the waiver is in the interests of the armed force concerned.

(j)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in subsection (i)(2) who is the secondary caregiver in the case of the birth of a child or the adoption of a child is allowed up to 21 days of leave to be used in connection with such birth or adoption.

(2) The Secretary shall prescribe in the regulations referred to in paragraph (1) a definition of the term "secondary caregiver" for purposes of this subsection.

(3) Any leave taken by a member under this subsection may be taken only in one increment in connection with such birth or adoption.

(4) Under the regulations prescribed for purposes of this subsection, paragraphs (6) through (10) of subsection (i) (other than paragraph (9)(B) of such subsection) shall apply to leave, and the taking of leave, authorized by this subsection.

(k) A member of a reserve component who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b), (d), and (f), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section.

(I) A member of the armed forces who gives birth while on active duty may be deployed during the period of 12 months beginning on the date of such birth only with the approval of a health care provider employed at a military medical treatment facility and—

(1) at the election of such member; or

(2) in the interest of national security, as determined by the Secretary of Defense.

(Added Pub. L. 87-649, §3(1), Sept. 7, 1962, 76 Stat. 492; amended Pub. L. 89-151, §3, Aug. 28, 1965, 79 Stat. 586; Pub. L. 90-245, §1, Jan. 2, 1968, 81 Stat. 782; Pub. L. 92-596, §1, Oct. 27, 1972, 86 Stat. 1317; Pub. L. 96-579, §10, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 97-81, §2(a), Nov. 20, 1981, 95 Stat. 1085; Pub. L. 98-94, title X, §1031(a), Sept. 24, 1983, 97 Stat. 671; Pub. L. 98-525, title XIV, §1405(18), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99-661, div. A, title V, §506(a), Nov. 14, 1986, 100 Stat. 3864; Pub. L. 102-190, div. A, title VI, §638, Dec. 5, 1991, 105 Stat. 1384; Pub. L. 108-136, div. A, title V, §542(a), Nov. 24, 2003, 117 Stat. 1478; Pub. L. 109-163, div. A, title V, §593(a), title VI, §682, Jan. 6, 2006, 119 Stat. 3280, 3321; Pub. L. 110-181, div. A, title V, §551(a)-(c), Jan. 28, 2008, 122 Stat. 117; Pub. L. 110-417, [div. A], title V, §532(a), Oct. 14, 2008, 122 Stat. 4449; Pub. L. 111-84, div. A, title V, §504, Oct. 28, 2009, 123 Stat. 2277; Pub. L. 111-383, div. A, title V, §516(a), Jan. 7, 2011, 124 Stat. 4213; Pub. L. 112-239, div. A, title V, §521, Jan. 2, 2013, 126 Stat. 1722; Pub. L. 114-328, div. A, title V, §521(a), Dec. 23, 2016, 130 Stat. 2113; Pub. L. 116-92, div. A, title V, §§571, 572, Dec. 20, 2019, 133 Stat. 1403; Pub. L. 117-81, div. A, title VI, §§621(a), 622(a), Dec. 27, 2021, 135 Stat. 1770, 1771.)

AMENDMENT OF SECTION

Pub. L. 117-81, div. A, title VI, §621(a), (b), Dec. 27, 2021, 135 Stat. 1770, 1771, provided that, effective one year after Dec. 27, 2021, this section is amended as follows:

(1) in subsection (i)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “a member” and all that follows through the period at the end and inserting the following: “a member of the armed forces described in paragraph (2) is allowed up to a total of 12 weeks of parental leave during the one-year period beginning after the following events:

“(i) The birth or adoption of a child of the member and in order to care for such child.

“(ii) The placement of a minor child with the member for adoption or long-term foster care.”; and

(ii) by striking subparagraph (B) and inserting the following:

“(B)(i) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize leave described under subparagraph (A) to be taken after the one-year period described in such paragraph in the case of a member described in paragraph (2) who, except for this subparagraph, would lose unused parental leave at the end of the one-year period described in subparagraph (A) as a result of—

“(I) operational requirements;

“(II) professional military education obligations; or

“(III) other circumstances that the Secretary determines reasonable and appropriate.

“(ii) The regulations prescribed under clause (i) shall require that any leave authorized to be taken after the one-year period described in subparagraph (A) shall be taken within a reasonable period of time, as determined by the Secretary of Defense, after cessation of the circumstances warranting the extended deadline.”

(B) by striking paragraphs (3), (8), and (10) and redesignating paragraphs (4), (5), (6), (7), and (9) as paragraphs (3), (4), (5), (6), and (7), respectively;

(C) in paragraph (3), as redesignated, by striking the matter preceding the em dash and inserting “A member who has given birth may receive medical convalescent leave in conjunction with such birth. Medical convalescent leave in excess of the leave under paragraph (1) may be authorized if such additional medical convalescent leave”;

(D) in paragraph (4), as redesignated, by striking “paragraphs (1) and (4)” and inserting “paragraphs (1) and (3)”;

(E) in paragraph (5)(A), as redesignated, by inserting “, subject to the exceptions in paragraph (1)(B)(ii)” after “shall be forfeited”; and

(F) in paragraph (7)(B), as redesignated, by striking “paragraph (4)” and inserting “paragraph (3)”;

(2) by striking subsection (j) and redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) by adding at the end the following new subsection (l):

“(l) A member of the armed forces who gives birth while on active duty may be required to meet body composition standards or pass a physical fitness test during the period of 12 months beginning on the date of such birth only with the approval of a health care provider employed at a military medical treatment facility and—

“(1) at the election of such member; or

“(2) in the interest of national security, as determined by the Secretary of Defense.”

See 2021 Amendment notes below.

Pub. L. 117-81, div. A, title VI, §622, Dec. 27, 2021, 135 Stat. 1771, provided that, effective 180 days after Dec. 27, 2021, this section is amended by adding at the end the following new subsection:

(m)(1)(A) Under regulations prescribed by the Secretary of Defense, a member of the armed forces described in subparagraph (B) is allowed up to two weeks of leave to be used in connection with the death of an immediate family member.

(B) Subparagraph (A) applies to the following members:

(A) A member on active duty.

(B) A member of a reserve component performing active Guard and Reserve duty.

(C) A member of a reserve component subject to an active duty recall or mobilization order in excess of 12 months.

(2) Under the regulations prescribed for purposes of this subsection, a member taking leave under paragraph (1) shall not have his or her leave account reduced as a result of taking such leave if such member’s accrued leave is fewer than 30 days. Members with 30 or more days of accrued leave shall be charged for bereavement leave until such point that the member’s accrued leave is less than 30

days. Any remaining bereavement leave taken by such member in accordance with paragraph (1) after such point shall not be chargeable to the member.

(3) In this section, the term “immediate family member”, with respect to a member of the armed forces, means—

- (A) the member’s spouse; or
- (B) a child of the member.

See 2021 Amendment note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
701(a)	37:31a(a) (1st, 2d, and last sentences).	Aug. 9, 1946, ch. 931, § 3(a) (less 4th, 5th, 6th, and 7th sentences), (b) (less proviso), 60 Stat. 963; Sept. 23, 1950, ch. 998, § 1, 64 Stat. 978; Aug. 10, 1956, ch. 1041, § 23, 70A, Stat. 630.
701(b)	37:31a(b) (less proviso).	
701(c)	37:31a(a) (8th sentence).	
701(d)	37:31a(a) (3d sentence).	
701(e)	37:31a(a) (9th sentence).	

In subsection (a), the 2d sentence of section 31a(a) of existing title 37 is omitted as inconsistent with subsection (b).

In subsection (b), the words “(other than a member on terminal leave on September 1, 1946)” and “at any time after August 31, 1946” are omitted as executed. The words “or regulation” are omitted, since a regulation cannot override a statute. The words “or have to his credit” are omitted as surplusage.

In subsections (b) and (c), the word “accrued” is omitted as covered by the word “accumulated”.

In subsection (e), the words “before or after August 9, 1946” and section 31a(a) (words after semicolon in 9th sentence) of existing title 37 are omitted as executed.

Editorial Notes

AMENDMENTS

2021—Subsec. (i)(1)(A). Pub. L. 117–81, § 621(a)(1)(A)(i), substituted “a member of the armed forces described in paragraph (2) is allowed up to a total of 12 weeks of parental leave during the one-year period beginning after the following events:” and cls. (i) and (ii) for “a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the birth of a child is allowed up to twelve weeks of total leave, including up to six weeks of medical convalescent leave, to be used in connection with such birth.”

Subsec. (i)(1)(B). Pub. L. 117–81, § 621(a)(1)(A)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: “Under the regulations prescribed for purposes of this subsection, a member of the armed forces described in paragraph (2) who is the primary caregiver in the case of the adoption of a child is allowed up to six weeks of total leave to be used in connection with such adoption.”

Subsec. (i)(3). Pub. L. 117–81, § 621(a)(1)(C), substituted “A member who has given birth may receive medical convalescent leave in conjunction with such birth. Medical convalescent leave in excess of the leave under paragraph (1) may be authorized if such additional medical convalescent leave” for “Notwithstanding paragraph (1)(A), a member may receive more than six weeks of medical convalescent leave in connection with the birth of a child, but only if the additional medical convalescent leave” in introductory provisions.

Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The Secretary shall prescribe in the regulations referred to in paragraph (1) a definition of the term ‘primary caregiver’ for purposes of this subsection.”

Subsec. (i)(4). Pub. L. 117–81, § 621(a)(1)(D), substituted “paragraphs (1) and (3)” for “paragraphs (1) and (4)”.

Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (i)(5). Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (i)(5)(A). Pub. L. 117–81, § 621(a)(1)(E), inserted “, subject to the exceptions in paragraph (1)(B)(ii)” after “shall be forfeited”.

Subsec. (i)(6). Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (i)(7). Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (9) as (7). Former par. (7) redesignated (6).

Subsec. (i)(7)(B). Pub. L. 117–81, § 621(a)(1)(F), substituted “paragraph (3)” for “paragraph (4)”.

Subsec. (i)(8). Pub. L. 117–81, § 621(a)(1)(B), struck out par. (8) which read as follows: “Under the regulations prescribed for purposes of this subsection, a member taking leave under paragraph (1) may, as a condition for taking such leave, be required—

“(A) to accept an extension of the member’s current service obligation, if any, by one week for every week of leave taken under paragraph (1); or

“(B) to incur a reduction in the member’s leave account by one week for every week of leave taken under paragraph (1).”

Subsec. (i)(9), (10). Pub. L. 117–81, § 621(a)(1)(B), redesignated par. (9) as (7) and struck out par. (10) which read as follows:

“(A) Subject to subparagraph (B), a member taking leave under paragraph (1) during a period of obligated service shall not be eligible for terminal leave, or to sell back leave, at the end such period of obligated service.

“(B) Under the regulations for purposes of this subsection, the Secretary concerned may waive, whether in whole or in part, the applicability of subparagraph (A) to a member who reenlists at the end of the member’s period of obligated service described in that subparagraph if the Secretary determines that the waiver is in the interests of the armed force concerned.”

Subsecs. (j), (k). Pub. L. 117–81, § 621(a)(2), redesignated subsecs. (k) and (l) as (j) and (k), respectively, and struck out former subsec. (j) which related to leave for secondary caregivers in case of birth of child or adoption of child.

Subsec. (l). Pub. L. 117–81, § 621(a)(3), added subsec. (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 117–81, § 622(a), added subsec. (m).

2019—Subsec. (i)(5). Pub. L. 116–92, § 571, substituted “in more than one increment” for “only in one increment” and inserted “in accordance with regulations prescribed by the Secretary concerned” before period at end.

Subsec. (l). Pub. L. 116–92, § 572, added subsec. (l).

2016—Subsecs. (i), (j). Pub. L. 114–328 added subsecs. (i) and (j) and struck out former subsecs. (i) and (j) which read as follows:

“(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption.

“(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

“(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection.

“(4) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.

“(j)(1) Under regulations prescribed by the Secretary concerned, a married member of the armed forces on active duty whose wife gives birth to a child shall receive 10 days of leave to be used in connection with the birth of the child.

“(2) Leave under paragraph (1) is in addition to other leave authorized under this section.”

2013—Subsec. (d). Pub. L. 112–239 substituted “September 30, 2015” for “September 30, 2013”.

2011—Subsec. (k). Pub. L. 111–383 added subsec. (k).

2009—Subsec. (d). Pub. L. 111–84 substituted “September 30, 2013” for “December 31, 2010”.

2008—Subsec. (b). Pub. L. 110-181, §551(a)(1), substituted “subsections (d), (f), and (g)” for “subsection (f) and subsection (g)”.

Subsec. (d). Pub. L. 110-181, §551(a)(2), added subsec. (d).

Subsec. (f)(1)(A). Pub. L. 110-181, §551(b)(1), substituted “at the end of the fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d)” for “any accumulated leave in excess of 60 days at the end of the fiscal year”.

Subsec. (f)(1)(C). Pub. L. 110-181, §551(b)(2), substituted “the days of leave authorized to be accumulated under subsection (b) or (d) that are” for “60 days” and inserted “(or fourth fiscal year, if accumulated while subsection (d) is in effect)” after “third fiscal year”.

Subsec. (f)(2). Pub. L. 110-181, §551(b)(3), substituted “except for this paragraph, would lose at the end of that fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), shall be permitted to retain such leave until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated” for “except for this paragraph—

“(A) would lose any accumulated leave in excess of 60 days at the end of that fiscal year, shall be permitted to retain such leave (not to exceed 90 days) until the end of the succeeding fiscal year; or

“(B) would lose any accumulated leave in excess of 60 days at the end of the succeeding fiscal year (other than by reason of subparagraph (A)), shall be permitted to retain such leave (not to exceed 90 days) until the end of the next succeeding fiscal year.”

Subsec. (g). Pub. L. 110-181, §551(c), substituted “limitations in subsections (b), (d), and (f)” for “60-day limitation in subsection (b) and the 90-day limitation in subsection (f)” in introductory provisions.

Subsec. (j). Pub. L. 110-417 added subsec. (j).

2006—Subsec. (f)(1)(B). Pub. L. 109-163, §682, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “This subsection applies to a member who serves on active duty for a continuous period of at least 120 days—

“(i) in an area in which the member is entitled to special pay under section 310(a) of title 37; or

“(ii) while assigned to a deployable ship or mobile unit or to other duty comparable to that specified in clause (i) that is designated for the purpose of this subsection.”

Subsec. (i). Pub. L. 109-163, §593(a), added subsec. (i).
2003—Subsec. (f)(1). Pub. L. 108-136 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Under uniform regulations to be prescribed by the Secretary concerned, and approved by the Secretary of Defense, a member who serves on active duty for a continuous period of at least 120 days in an area in which he is entitled to special pay under section 310(a) of title 37 or a member assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section, may accumulate 90 days’ leave. Except as provided in paragraph (2), leave in excess of 60 days accumulated under this subsection is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the service terminated.”

1991—Subsec. (f). Pub. L. 102-190 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), leave” for “Leave” in last sentence, and added par. (2).

1986—Subsec. (h). Pub. L. 99-661 added subsec. (h).

1984—Subsec. (g). Pub. L. 98-525 substituted “60-day” for “sixty-day”, “90-day” for “ninety-day”, and “150” for “one hundred and fifty” in two places.

1983—Subsec. (f). Pub. L. 98-94 substituted “the end of the third fiscal year” for “the end of the fiscal year”.

1981—Subsec. (a)(2). Pub. L. 97-81, §2(a)(1), struck out “and” at end of par. (2).

Subsec. (a)(3). Pub. L. 97-81, §2(a)(2), substituted “; and” for a period at end of par. (3).

Subsec. (a)(4). Pub. L. 97-81, §2(a)(3), added par. (4).

1980—Subsec. (f). Pub. L. 96-579 authorized accumulation of leave for service as a member assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section.

1972—Subsec. (b). Pub. L. 92-596, §1(1), inserted reference to subsec. (g).

Subsec. (g). Pub. L. 92-596, §1(2), added subsec. (g).

1968—Subsec. (b). Pub. L. 90-245, §1(1), inserted reference to subsec. (f).

Subsec. (f). Pub. L. 90-245, §1(2), added subsec. (f).

1965—Subsec. (d). Pub. L. 89-151 repealed subsec. (d) which provided that accumulated leave did not survive the death of a member during active service.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-81, div. A, title VI, §621(b), Dec. 27, 2021, 135 Stat. 1771, provided that: “The amendments made by subsection (a) [amending this section] shall take effect one year after the date of the enactment of this Act [Dec. 27, 2021].”

Pub. L. 117-81, div. A, title VI, §622(b), Dec. 27, 2021, 135 Stat. 1772, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Dec. 27, 2021].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title V, §532(b), Oct. 14, 2008, 122 Stat. 4449, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 14, 2008] and applies only with respect to children born on or after that date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title V, §593(b), Jan. 6, 2006, 119 Stat. 3281, provided that: “Subsection (i) of section 701 of title 10, United States Code (as added by subsection (a)), shall take effect on January 1, 2006, and shall apply only with respect to adoptions completed on or after that date.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, §542(b), Nov. 24, 2003, 117 Stat. 1478, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2003, or the date of the enactment of this Act [Nov. 24, 2003], whichever is later.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title X, §1031(b)(1), (2), Sept. 24, 1983, 97 Stat. 671, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Sept. 24, 1983] and shall apply to leave accumulated under section 701(f) of such title [this title] after September 30, 1980.

“(2) A member of the Armed Forces who was authorized under section 701(f) of such title to accumulate 90 days’ leave during fiscal year 1980, 1981, or 1982 and lost any leave at the end of fiscal year 1981, 1982, or 1983, respectively, because of the provisions of the last sentence of such section, as in effect on the day before the date of the enactment of this Act, shall be credited with the amount of the leave lost and may retain leave in excess of 60 days until (A) September 30, 1984, or (B) the end of the third fiscal year after the year in which such leave was accumulated, whichever is later, but in no case may such a member accumulate leave in excess of 90 days.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-81 to take effect at the end of the 60-day period beginning on Nov. 20, 1981, and to apply to each member whose sentence by court-martial is approved on or after Jan. 20, 1982, under section 864

or 865 of this title by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983 (Pub. L. 98-209), or under section 860 of this title by the officer empowered to act on the sentence on or after that effective date, see section 7(a) and (b)(1) of Pub. L. 97-81, set out as an Effective Date note under section 706 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-596, §3, Oct. 27, 1972, 86 Stat. 1318, provided that: "The first and second sections of this Act [amending this section and section 501 of Title 37, Pay and Allowances of the Uniformed Services] become effective as of February 28, 1961."

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-245, §2, Jan. 2, 1968, 81 Stat. 782, provided that: "Section 1 of this Act [amending this section] applies only to active duty performed after January 1, 1968."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-151 effective only in the case of members who die on or after Aug. 28, 1965, see section 4 of Pub. L. 89-151, set out as a note under section 501 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE

Section 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.

REGULATIONS

Pub. L. 117-81, div. A, title VI, §621(c), Dec. 27, 2021, 135 Stat. 1771, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall prescribe regulations implementing the amendments made by subsection (a) [amending this section]."

ANNUAL REPORTS ON USE OF LEAVE

Pub. L. 117-81, div. A, title VI, §621(d), Dec. 27, 2021, 135 Stat. 1771, provided that: "Not later than January 1, 2023, and annually thereafter, each Secretary of a military department shall submit, to the Committees on Armed Services of the Senate and House of Representatives, a report regarding the use, during the preceding fiscal year, of leave under subsections (i) and (j) of section 701 of such title, as amended by subsection (a), disaggregated by births, adoptions, and foster placements, including the number of members of the Armed Forces who—

- "(1) used the maximum amount of primary caregiver leave; and
- "(2) used leave in multiple increments."

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

ACCUMULATION OF LEAVE AFTER SEPTEMBER 30, 1980, PURSUANT TO SUBSECTION (f)

Pub. L. 97-39, title VII, §702, Aug. 14, 1981, 95 Stat. 943, provided that: "The amendment made by section 10 of the Military Pay and Allowances Benefits Act of 1980 (Public Law 96-579; 94 Stat. 3368) [amending this section] shall apply with respect to the accumulation of leave by members of the Armed Forces who after September 30, 1979, are assigned (1) to a deployable ship or mobile unit, or (2) to other duty designated after the date of the enactment of this Act [Aug. 14, 1981] as duty

qualifying for the purpose of section 701(f) of title 10, United States Code, as amended by that amendment."

For savings provision extending period for which certain accrued leave under subsec. (f) of this section may be retained by members of Armed Forces, see section 1115 of Pub. L. 101-510, set out as a Treatment of Accumulated Leave note under section 501 of Title 37, Pay and Allowances of the Uniformed Services.

§ 702. Cadets and midshipmen

(a) GRADUATION LEAVE.—Graduates of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy who, upon graduation, are appointed in a component of an armed force, may, in the discretion of the Secretary concerned or his designated representative, be granted graduation leave of not more than 60 days. Leave granted under this subsection is in addition to any other leave and may not be deducted from or charged against other leave authorized by this chapter, and must be completed within three months of the date of graduation. Leave under this subsection may not be carried forward as credit beyond the date of reporting to the first permanent duty station or to a port of embarkation for permanent duty outside the United States or in Alaska or Hawaii.

(b) INVOLUNTARY LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.—(1) Under regulations prescribed under subsection (d), the Secretary concerned may place an academy cadet or midshipman on involuntary leave for any period during which the Superintendent of the Academy at which the cadet or midshipman is admitted has suspended the cadet or midshipman from duty at the Academy—

- (A) pending separation from the Academy;
- (B) pending return to the Academy to repeat an academic semester or year; or
- (C) for other good cause.

(2) A cadet or midshipman placed on involuntary leave under paragraph (1) is not entitled to any pay under section 203(c) of title 37 for the period of the leave.

(3) Return of an academy cadet or midshipman to a pay status at the Academy concerned from involuntary leave status under paragraph (1) does not restore any entitlement of the cadet or midshipman to pay for the period of the involuntary leave.

(c) INAPPLICABLE LEAVE PROVISIONS.—Sections 701, 703, and 704 of this title and subsection (a) do not apply to academy cadets or midshipmen or cadets or midshipmen serving elsewhere in the armed forces.

(d) REGULATIONS.—The Secretary concerned, or his designated representative, may prescribe regulations relating to leave for cadets and midshipmen.

(e) DEFINITION.—In this section, the term "academy cadet or midshipman" means—

- (1) a cadet of the United States Military Academy;
- (2) a midshipman of the United States Naval Academy;
- (3) a cadet of the United States Air Force Academy; or
- (4) a cadet of the United States Coast Guard Academy.