

other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d).

Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

(f) Whoever violates subsection (b), (c), or (d) shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than \$25,000.

(g) Nothing in this section shall limit the right of any member of the armed forces—

(1) to join or maintain membership in any organization or association not constituting a “military labor organization” as defined in subsection (a)(2) of this section;

(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

(3) to seek or receive information or counseling from any source;

(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

(5) to petition the Congress for redress of grievances; or

(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.

(Added Pub. L. 95-610, §2(a), Nov. 8, 1978, 92 Stat. 3085, §975; renumbered §976, Pub. L. 96-107, title VIII, §821(a), Nov. 9, 1979, 93 Stat. 820; amended Pub. L. 98-525, title IV, §414(a)(6), Oct. 19, 1984, 98 Stat. 2519; Pub. L. 99-661, div. A, title XIII, §1343(a)(2), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 105-85, div. A, title X, §1073(a)(15), Nov. 18, 1997, 111 Stat. 1900.)

Editorial Notes

AMENDMENTS

1997—Subsec. (f). Pub. L. 105-85 substituted “shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than \$25,000.” for “shall, in the case of an individual, be fined not more than \$10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than \$25,000 and not more than \$250,000.”

1987—Subsec. (a)(1) to (3). Pub. L. 100-26 inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in each paragraph and substituted lowercase letter.

1986—Subsec. (a)(1). Pub. L. 99-661 struck out the second of two commas before “(B)”.

1984—Subsec. (a)(1). Pub. L. 98-525 added cl. (B) and redesignated existing cl. (B) as (C).

Statutory Notes and Related Subsidiaries

FINDINGS; PURPOSE

Pub. L. 95-610, §1, Nov. 8, 1978, 92 Stat. 3085, provided that:

“(a) The Congress makes the following findings:

“(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

“(2) Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

“(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

“(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

“(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

“(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

“(b) The purpose of this Act [enacting this section] is to promote the readiness of the armed forces to defend the United States.”

§ 977. Conversion of military medical and dental positions to civilian medical and dental positions: limitation

(a) PROCESS.—The Secretary of Defense, in collaboration with the Secretaries of the military departments, shall establish a process to define the military medical and dental personnel requirements necessary to meet operational medical force readiness requirements.

(b) REQUIREMENTS RELATING TO CONVERSION.—A military medical or dental position within the Department of Defense may be converted to a civilian medical or dental position if the Secretary determines that the position is not necessary to meet operational medical force readiness requirements, as determined pursuant to subsection (a).

(c) GRADE OR LEVEL CONVERTED.—In carrying out a conversion under subsection (b), the Secretary of Defense—

(1) shall convert the applicable military position to a civilian position with a level of compensation commensurate with the skills and experience necessary to carry out the duties of such civilian position; and

(2) may not place any limitation on the grade or level to which the military position is so converted.

(d) DEFINITIONS.—In this section:

(1) The term “military medical or dental position” means a position for the performance of health care functions within the armed forces held by a member of the armed forces.

(2) The term “civilian medical or dental position” means a position for the performance of health care functions within the Department of Defense held by an employee of the

Department or of a contractor of the Department.

(3) The term “conversion”, with respect to a military medical or dental position, means a change of the position to a civilian medical or dental position, effective as of the date of the manning authorization document of the military department making the change (through a change in designation from military to civilian in the document, the elimination of the listing of the position as a military position in the document, or through any other means indicating the change in the document or otherwise).

(Added Pub. L. 114-328, div. A, title VII, §721(a)(1), Dec. 23, 2016, 130 Stat. 2227.)

Editorial Notes

PRIOR PROVISIONS

A prior section 977, added Pub. L. 103-160, div. A, title III, §351(a), Nov. 30, 1993, 107 Stat. 1626; amended Pub. L. 105-85, div. A, title X, §1073(a)(16), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 106-65, div. A, title X, §1066(a)(6), Oct. 5, 1999, 113 Stat. 770, related to prohibition of assignment of active duty members to operation of commissary stores, prior to repeal by Pub. L. 108-375, div. A, title VI, §651(e)(1), Oct. 28, 2004, 118 Stat. 1972.

Another prior section 977, added Pub. L. 96-342, title X, §1002(a), Sept. 8, 1980, 94 Stat. 1119; amended Pub. L. 97-22, §11(a)(1), July 10, 1981, 95 Stat. 137, provided that no one who originally enlisted after Sept. 7, 1980, in a regular armed services component and failed to serve at least 24 months of such enlistment would be eligible for Federal benefits otherwise receivable because of active service under such enlistment, except that such exclusion was not applicable to one discharged under section 1173 of chapter 61 of this title or to one later proved to be suffering from a disability resulting from an injury or disease incurred during enlistment, prior to repeal by Pub. L. 97-306, title IV, §408(c)(1), Oct. 14, 1982, 96 Stat. 1446. See section 5303A of Title 38, Veterans' Benefits, and provisions set out as notes under that section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 114-328, div. A, title VII, §721(a)(3), Dec. 23, 2016, 130 Stat. 2228, provided that: “The Secretary of Defense may not carry out section 977(b) of title 10, United States Code, as added by paragraph (1), until the date that is 180 days after the date on which the Secretary submits the report under subsection (b).”

§ 978. Drug and alcohol abuse and dependency: testing of new entrants

(a)(1) The Secretary concerned shall require that, except as provided under paragraph (2), each person applying for an original enlistment or appointment in the armed forces shall be required, before becoming a member of the armed forces, to—

(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

(B) be evaluated for drug and alcohol dependency.

(2) The Secretary concerned may provide that, in lieu of undergoing the testing and evaluation described in paragraph (1) before becoming a member of the armed forces, a member of the armed forces under the Secretary's jurisdiction

may be administered that testing and evaluation after the member's initial entry on active duty. In any such case, the testing and evaluation shall be carried out within 72 hours of the member's initial entry on active duty.

(3) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) within 72 hours of such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers' Training Corps program to undergo such testing and evaluation before such an appointment is executed.

(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not (unless that person subsequently consents to such testing and evaluation)—

(1) be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces; or

(2) if such person is already a member of the armed forces, be retained in the armed forces.

An original appointment of any such person as an officer shall be terminated.

(c)(1) A person determined, as the result of testing conducted under subsection (a)(1), to be dependent on drugs or alcohol shall be denied entrance into the armed forces.

(2) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(2), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

(3) A person who is denied entrance into the armed forces under paragraph (1), or whose enlistment or appointment is voided under paragraph (2), shall be referred to a civilian treatment facility.

(4) The Secretary concerned may place on excess leave any member of the armed forces whose test results under subsection (a)(2) are positive for drug or alcohol use. The Secretary may continue such member's status on excess leave pending disposition of the member's case and processing for administrative separation.

(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Homeland Security. Those regulations shall apply uniformly throughout the armed forces.

(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).

(Added Pub. L. 97-295, §1(14)(A), Oct. 12, 1982, 96 Stat. 1289; amended Pub. L. 100-180, div. A, title V, §513(a)(1), Dec. 4, 1987, 101 Stat. 1091; Pub. L. 100-456, div. A, title V, §521(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 101-189, div. A, title V, §513(a)-(c), Nov. 29, 1989, 103 Stat. 1440; Pub. L. 101-510, div. A, title XIV, §1484(k)(4), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 103-160, div. A, title V, §572, Nov. 30, 1993, 107 Stat. 1673; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)