

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title X, §1070(b), Oct. 5, 1994, 108 Stat. 2856, provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, as enacted.

DEADLINE FOR PRESCRIBING PROCEDURES

Pub. L. 103-160, div. A, title V, §551(b), Nov. 30, 1993, 107 Stat. 1662, provided that: "The Secretary of Defense shall prescribe procedures to carry out section 1058 of title 10, United States Code, as added by subsection (a), not later than six months after the date of the enactment of this Act [Nov. 30, 1993]."

§ 1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits

(a) **AUTHORITY TO PAY COMPENSATION.**—The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy), and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may each establish a program to pay monthly transitional compensation in accordance with this section to dependents or former dependents of a member of the armed forces described in subsection (b). Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.

(b) **PUNITIVE AND OTHER ADVERSE ACTIONS COVERED.**—This section applies in the case of a member of the armed forces on active duty for a period of more than 30 days—

(1) who is convicted of a dependent-abuse offense (as defined in subsection (c)) and whose conviction results in the member—

- (A) being separated from active duty pursuant to a sentence of a court-martial; or
- (B) forfeiting all pay and allowances pursuant to a sentence of a court-martial; or

(2) who is administratively separated, voluntarily or involuntarily, from active duty in accordance with applicable regulations if the basis for the separation includes a dependent-abuse offense.

(c) **DEPENDENT-ABUSE OFFENSES.**—For purposes of this section, a dependent-abuse offense is conduct by an individual while a member of the armed forces on active duty for a period of more than 30 days—

- (1) that involves abuse of the spouse or a dependent child of the member; and
- (2) that is a criminal offense specified in regulations prescribed by the Secretary of Defense under subsection (k).

(d) **RECIPIENTS OF PAYMENTS.**—In the case of any individual described in subsection (b), the Secretary shall pay such compensation to dependents or former dependents of the individual as follows:

- (1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, such compensation shall be paid to the spouse or former spouse to whom the individual was married at that time, including an amount (determined

under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.

(2) If there is a spouse or former spouse who is or, but for subsection (g), would be eligible for compensation under this section and if there is a dependent child of the individual described in subsection (b) who does not reside in the same household as that spouse or former spouse, compensation under this section shall be paid to each such dependent child of the individual described in subsection (b) who does not reside in that household.

(3) If there is no spouse or former spouse who is (or but for subsection (g) would be) eligible under paragraph (1), such compensation shall be paid to the dependent children of the individual described in subsection (b).

(4) For purposes of this subsection, an individual's status as a "dependent child" shall be determined as of the date on which the individual described in subsection (b) is convicted of the dependent-abuse offense or, in a case described in subsection (b)(2), as of the date on which the separation action is initiated by a commander of the individual described in subsection (b).

(e) **COMMENCEMENT AND DURATION OF PAYMENT.**—(1) Payment of transitional compensation under this section—

(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence—

(i) as of the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(ii) if there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) if the sentence includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

(2) Transitional compensation with respect to a member shall be paid for a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned.

(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction for a dependent-abuse offense and the conviction is disapproved or is

otherwise not part of the judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) or the punishment is disapproved or is otherwise not part of the judgment under such section (article), any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).

(f) AMOUNT OF PAYMENT.—(1) Payment to a spouse or former spouse under this section for any month shall be at the rate in effect for that month for the payment of dependency and indemnity compensation under section 1311(a)(1) of title 38.

(2) If a spouse or former spouse to whom compensation is paid under this section has custody of a dependent child of the member who resides in the same household as that spouse or former spouse, the amount of such compensation paid for any month shall be increased for each such dependent child by the amount in effect for that month under section 1311(b) of title 38.

(3) If compensation is paid under this section to a child or children pursuant to subsection (d)(2) or (d)(3), such compensation shall be paid in equal shares, with the amount of such compensation for any month determined in accordance with the rates in effect for that month under section 1313 of title 38.

(4) Payment to a child under this section shall not cover any period before the birth of the child.

(g) SPOUSE AND FORMER SPOUSE FORFEITURE PROVISIONS.—(1) If a former spouse receiving compensation under this section remarries, the Secretary shall terminate payment of such compensation, effective as of the date of such marriage. The Secretary may not renew payment of compensation under this section to such former spouse in the event of the termination of such subsequent marriage.

(2) If after a punitive or other adverse action is executed in the case of a former member as described in subsection (b) the former member resides in the same household as the spouse or former spouse, or dependent child, to whom compensation is otherwise payable under this section, the Secretary shall terminate payment of such compensation, effective as of the time the former member begins residing in such household. Compensation paid for a period after the former member's separation, but before the former member resides in the household, shall

not be recouped. If the former member subsequently ceases to reside in such household before the end of the period of eligibility for such payments, the Secretary may not resume such payments.

(3) In a case in which the victim of the dependent-abuse offense resulting in a punitive or other adverse action described in subsection (b) was a dependent child, the Secretary concerned may not pay compensation under this section to a spouse or former spouse who would otherwise be eligible to receive such compensation if the Secretary determines (under regulations prescribed under subsection (k)) that the spouse or former spouse was an active participant in the conduct constituting the dependent-abuse offense.

(h) EFFECT OF CONTINUATION OF MILITARY PAY.—In the case of payment of transitional compensation by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of transitional compensation shall not be made for any period for which an order—

(1) suspends, in whole or in part, that part of a sentence that includes forfeiture of the member's pay and allowance; or

(2) otherwise results in continuation, in whole or in part, of the member's pay and allowances.

(i) COORDINATION OF BENEFITS.—The Secretary concerned may not make payments to a spouse or former spouse under both this section and section 1408(h)(1) of this title. In the case of a spouse or former spouse for whom a court order provides for payments by the Secretary pursuant to section 1408(h)(1) of this title and to whom the Secretary offers payments under this section, the spouse or former spouse shall elect which to receive.

(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).

(k) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy). The Secretary of Homeland Security shall prescribe regulations to carry out this section with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) Regulations prescribed under paragraph (1) shall include the criminal offenses, or categories of offenses, under the Uniform Code of Military Justice (chapter 47 of this title), Federal crimi-

nal law, the criminal laws of the States and other jurisdictions of the United States, and the laws of other nations that are to be considered to be dependent-abuse offenses for the purposes of this section.

(l) **DEPENDENT CHILD DEFINED.**—In this section, the term “dependent child”, with respect to a member or former member of the armed forces referred to in subsection (b), means an unmarried child, including an adopted child or a step-child, who was residing with the member or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member or who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member and was subsequently born alive to the eligible spouse or former spouse and—

(1) who is under 18 years of age;

(2) who is 18 years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child’s support; or

(3) who is 18 years of age or older but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child’s support.

(m) **EXCEPTIONAL ELIGIBILITY FOR DEPENDENTS OF MEMBERS OR FORMER MEMBERS.**—(1) The Secretary concerned, under regulations prescribed under subsection (k), may authorize eligibility for benefits under this section for dependents and former dependents of a member or former member of the armed forces in a case in which the dependents or former dependents are not otherwise eligible for such benefits and the Secretary concerned determines that the member or former member engaged in conduct that is a dependent-abuse offense under this section and the member or former member was separated from active duty other than as described in subsection (b).

(2) In a case in which the Secretary concerned, under the authority of paragraph (1), authorizes benefits to be provided under this section, such benefits shall be provided in the same manner as if the member or former member were an individual described in subsection (b), except that, under regulations prescribed under subsection (k), the Secretary shall make such adjustments to the commencement and duration of payment provisions of subsection (e), and may make adjustments to other provisions of this section, as the Secretary considers necessary in light of the circumstances in order to provide benefits substantially equivalent to the benefits provided in the case of an individual described in subsection (b).

(3) For purposes of the provision of benefits under this section pursuant to this subsection, a member shall be considered separated from active duty upon the earliest of—

(A) the date an administrative separation is initiated by a commander of the member;

(B) the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(C) the date the member’s term of service expires.

(4)(A) Except as provided in subparagraph (B), the authority of the Secretary concerned under paragraph (1) may not be delegated.

(B) During the two year period following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, the authority of the Secretary concerned under paragraph (1) may be delegated to an official at the Assistant Secretary-level or above. Any exercise of such delegated authority shall be reported to the Secretary concerned on a quarterly basis.

(Added Pub. L. 103–160, div. A, title V, §554(a)(1), Nov. 30, 1993, 107 Stat. 1663, §1058; renumbered §1059 and amended Pub. L. 103–337, div. A, title V, §535(a)–(c)(1), title X, §1070(a)(5)(A), Oct. 5, 1994, 108 Stat. 2762, 2763, 2855; Pub. L. 104–106, div. A, title VI, §636(a), (b), title XV, §1503(a)(8), Feb. 10, 1996, 110 Stat. 367, 511; Pub. L. 105–261, div. A, title V, §570(a), (b), Oct. 17, 1998, 112 Stat. 2032; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §§572(a), (b)(1), (c), 573(a), 574, Nov. 24, 2003, 117 Stat. 1484–1486; Pub. L. 112–239, div. A, title V, §564(a), Jan. 2, 2013, 126 Stat. 1748; Pub. L. 113–291, div. A, title VI, §621, Dec. 19, 2014, 128 Stat. 3401; Pub. L. 115–91, div. A, title V, §531(l), Dec. 12, 2017, 131 Stat. 1386; Pub. L. 116–92, div. A, title VI, §621, Dec. 20, 2019, 133 Stat. 1426; Pub. L. 117–81, div. A, title V, §549(a), Dec. 27, 2021, 135 Stat. 1715.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsec. (m)(4)(B), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

AMENDMENTS

2021—Subsec. (m)(4). Pub. L. 117–81 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The authority of the Secretary concerned under paragraph (1) may not be delegated.”

2019—Subsec. (m). Pub. L. 116–92, §621(1), (2), inserted “Members or” before “Former Members” in heading and “member or” before “former member” wherever appearing in pars. (1) and (2).

Subsec. (m)(3), (4). Pub. L. 116–92, §621(3), (4), added par. (3) and redesignated former par. (3) as (4).

2017—Subsec. (e)(1)(A)(ii). Pub. L. 115–91, §531(l)(1), substituted “the date of entry of judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) if the sentence includes” for “the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes”.

Subsec. (e)(3)(A). Pub. L. 115–91, §531(l)(2), substituted “conviction for a dependent-abuse offense and the conviction is disapproved or is otherwise not part of the judgment under section 860c of this title (article 60c of the Uniform Code of Military Justice) or the punishment is disapproved or is otherwise not part of the

judgment under such section (article),” for “conviction by a court-martial for a dependent-abuse offense and each such conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated to a lesser punishment that does not include any such punishment.”

2014—Subsec. (d)(4). Pub. L. 113-291 substituted “as of the date on which the separation action is initiated by a commander of the individual described in subsection (b)” for “as of the date on which the individual described in subsection (b) is separated from active duty”.

2013—Subsec. (f)(4). Pub. L. 112-239, § 564(a)(1), added par. (4).

Subsec. (l). Pub. L. 112-239, § 564(a)(2), substituted “or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member or who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member and was subsequently born alive to the eligible spouse or former spouse” for “at the time of the dependent-abuse offense resulting in the separation of the former member” in introductory provisions.

2003—Subsec. (b)(2). Pub. L. 108-136, § 574, inserted “, voluntarily or involuntarily,” after “administratively separated”.

Subsec. (e)(1)(A). Pub. L. 108-136, § 572(a), substituted “shall commence—” and cls. (i) and (ii) for “shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and”.

Subsec. (e)(2). Pub. L. 108-136, § 572(b)(1), substituted “a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned” for “a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member’s period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

- “(A) the unserved portion of the member’s period of obligated active duty service; or
- “(B) 12 months”.

Subsec. (e)(3)(A). Pub. L. 108-136, § 572(c), substituted “conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated” for “punishment applicable to the member under the sentence is remitted, set aside, or mitigated”.

Subsec. (m). Pub. L. 108-136, § 573(a), added subsec. (m).

2002—Subsecs. (a), (k)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1998—Subsec. (d)(1). Pub. L. 105-261, § 570(a)(1), struck out “(except as otherwise provided in this subsection)” after “such compensation shall” and inserted before period at end “, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse”.

Subsec. (d)(2). Pub. L. 105-261, § 570(a)(2), substituted “is or, but for subsection (g), would be eligible” for “(but for subsection (g)) would be eligible” and “compensation under this section shall” for “such compensation shall”.

Subsec. (d)(4). Pub. L. 105-261, § 570(a)(3), substituted “For purposes of this subsection” for “For purposes of paragraphs (2) and (3)”.

Subsec. (f)(2). Pub. L. 105-261, § 570(b), substituted “has custody of a dependent child of the member who resides in the same household as that spouse or former spouse” for “has custody of a dependent child or children of the member”.

1996—Subsec. (a). Pub. L. 104-106, § 636(a), inserted at end “Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.”

Subsec. (c)(2). Pub. L. 104-106, § 1503(a)(8), substituted “subsection (k)” for “subsection (j)”.

Subsec. (d). Pub. L. 104-106, § 636(b)(1), in introductory provisions, substituted “the case of any individual described in subsection (b)” for “any case of a separation from active duty as described in subsection (b)” and “dependents of the individual” for “dependents of the former member”.

Subsec. (d)(1). Pub. L. 104-106, § 636(b)(2), substituted “If the individual” for “If the former member” and “to whom the individual” for “to whom the member”.

Subsec. (d)(2). Pub. L. 104-106, § 636(b)(3), substituted “individual described in subsection (b)” for “former member” in two places.

Subsec. (d)(3). Pub. L. 104-106, § 636(b)(4), substituted “individual described in subsection (b)” for “former member”.

Subsec. (d)(4). Pub. L. 104-106, § 636(b)(5), substituted “individual described in subsection (b)” for “member” in two places.

Subsec. (g)(3). Pub. L. 104-106, § 1503(a)(8), substituted “subsection (k)” for “subsection (j)”.

1994—Pub. L. 103-337, § 1070(a)(5)(A), renumbered section 1058 of this title as this section.

Pub. L. 103-337, § 535(c)(1), inserted “; commissary and exchange benefits” at end of section catchline.

Subsec. (e). Pub. L. 103-337, § 535(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

“(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section shall commence as of the date of the discontinuance of the member’s pay and allowances pursuant to the separation or sentencing of the member and, except as provided in paragraph (2), shall be paid for a period of 36 months.

“(2) If as of the date on which payment of transitional compensation commences the unserved portion of the member’s period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

- “(A) the unserved portion of the member’s period of obligated active duty service; or
- “(B) 12 months.”

Subsecs. (j) to (l). Pub. L. 103-337, § 535(b), added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective immediately after the amendments made by div. E (§§ 5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 531(p) of Pub. L. 115-91, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title V, § 564(b), Jan. 2, 2013, 126 Stat. 1749, provided that: “No benefits shall accrue by reason of the amendments made by this section [amending this section] for any month that begins before the date of the enactment of this Act [Jan. 2, 2013].”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, § 572(d), Nov. 24, 2003, 117 Stat. 1485, provided that: “The amendments made

by this section [amending this section] shall apply only with respect to cases in which a court-martial sentence is adjudged on or after the date of the enactment of this Act [Nov. 24, 2003].”

Pub. L. 108-136, div. A, title V, § 573(b), Nov. 24, 2003, 117 Stat. 1485, provided that: “The authority under subsection (m) of section 1059 of title 10, United States Code, as added by subsection (a), may be exercised with respect to eligibility for benefits under that section only for dependents and former dependents of individuals who are separated from active duty in the Armed Forces on or after the date of the enactment of this Act [Nov. 24, 2003].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title V, § 570(c), Oct. 17, 1998, 112 Stat. 2032, provided that: “No benefits shall accrue by reason of the amendments made by this section [amending this section] for any month that begins before the date of the enactment of this Act [Oct. 17, 1998].”

EFFECTIVE DATE

Pub. L. 103-160, div. A, title V, § 554(b), Nov. 30, 1993, 107 Stat. 1666, as amended by Pub. L. 103-337, div. A, title X, § 1070(b)(5), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title VI, § 636(c), Feb. 10, 1996, 110 Stat. 367, provided that:

“(1) The section of title 10, United States Code, added by subsection (a)(1) [this section] shall apply with respect to a member of the Armed Forces who, after November 29, 1993—

“(A) is separated from active duty as described in subsection (b) of such section; or

“(B) forfeits all pay and allowances as described in such subsection.

“(2) Payments of transitional compensation under that section in the case of any person eligible to receive payments under that section shall be made for each month after November 1993 for which that person may be paid transitional compensation in accordance with that section.”

DURATION OF TRANSITIONAL COMPENSATION PAYMENTS

Pub. L. 108-136, div. A, title V, § 572(b)(2), Nov. 24, 2003, 117 Stat. 1485, provided that: “Policies under subsection (e)(2) of section 1059 of title 10, United States Code, as amended by paragraph (1), for the duration of transitional compensation payments under that section shall be prescribed under such subsection not later than six months after the date of the enactment of this Act [Nov. 24, 2003].”

§ 1060. Military service of retired members with newly democratic nations: consent of Congress

(a) CONSENT OF CONGRESS.—Subject to subsection (b), Congress consents to a retired member of the uniformed services—

(1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and

(2) accepting compensation associated with such employment, office, or position.

(b) APPROVAL REQUIRED.—The consent provided in subsection (a) for a retired member of the uniformed services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

(c) DETERMINATION OF NEWLY DEMOCRATIC NATIONS.—The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation for the purposes of this section.

[(d) Repealed. Pub. L. 108-136, div. A, title X, § 1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.]

(e) CONTINUED ENTITLEMENT TO RETIRED PAY AND BENEFITS.—The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member’s status as a retired member of the uniformed services, and the eligibility of dependents of such retired member to receive benefits on the basis of such retired member’s status as a retired member of the uniformed services, may not be terminated by reason of employment or holding of an office or position consented to in subsection (a).

(f) RETIRED MEMBER DEFINED.—In this section, the term “retired member” means a member or former member of the uniformed services who is entitled to receive retired or retainer pay.

(g) CIVIL EMPLOYMENT BY FOREIGN GOVERNMENTS.—For a provision of law providing the consent of Congress to civil employment by foreign governments, see section 908 of title 37.

(Added Pub. L. 103-160, div. A, title XIV, § 1433(b)(1), Nov. 30, 1993, 107 Stat. 1834, § 1058; renumbered § 1060, Pub. L. 103-337, div. A, title X, § 1070(a)(6)(A), Oct. 5, 1994, 108 Stat. 2855; amended Pub. L. 104-106, div. A, title XV, § 1502(a)(13), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, § 1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.)

Editorial Notes

AMENDMENTS

2003—Subsec. (d). Pub. L. 108-136 struck out heading and text of subsec. (d). Text read as follows: “The Secretary concerned and the Secretary of State shall notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives of each approval under subsection (b) and each determination under subsection (c).”

1999—Subsec. (d). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (d). Pub. L. 104-106 substituted “Committee on National Security and the Committee on International Relations” for “Committee on Armed Services and the Committee on Foreign Affairs”.

1994—Pub. L. 103-337 renumbered section 1058 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 103-160, div. A, title XIV, § 1433(d), Nov. 30, 1993, 107 Stat. 1835, provided that this section was to take effect as of Jan. 1, 1993, prior to repeal by Pub. L. 103-236, title I, § 182(b), Apr. 30, 1994, 108 Stat. 418.

RESTORATION OF WITHHELD BENEFITS

Pub. L. 103-236, title I, § 182(a), Apr. 30, 1994, 108 Stat. 418, as amended by Pub. L. 103-337, div. A, title X, § 1070(d)(7), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 103-415, § 1(j), Oct. 25, 1994, 108 Stat. 4301, provided that: “With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense have approved the employment or the holding