

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1165 | 10:600d (less last 36 words of last sentence). 34:135d (less last 36 words of last sentence). | May 29, 1954, ch. 249, § 6 (less last 36 words of last sentence), 68 Stat. 159. |

The words “in his discretion” are omitted as surplusage. The last 10 words of the last sentence are inserted for clarity.

Editorial Notes

AMENDMENTS

1980—Pub. L. 96-513 authorized entitlement, if the regular warrant officer is eligible therefor, to separation pay under section 1174.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 1166. Regular warrant officers: elimination of unfitness or unsatisfactory performance

(a) Under such regulations as the Secretary concerned may prescribe, and subject to the recommendations of a board of officers or a selection board under section 576 of this title, a permanent regular warrant officer who is eligible for retirement under any provision of law shall be retired under that law if his records and reports establish his unfitness or unsatisfactory performance of duty. If he is not eligible for retirement under any provision of law, but since the date when he accepted his original permanent appointment as a regular warrant officer he has at least three years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), he shall, if eligible therefor, be separated with separation pay under section 1174 of this title or severance pay under section 286a¹ of title 14, as appropriate. However, instead of being paid separation pay or severance pay he may be enlisted under section 515 of this title. If he does not have three years of such service, he shall be separated under section 1165 of this title.

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 90; Pub. L. 87-649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 96-513, title I, §109(b)(2), Dec. 12, 1980, 94 Stat. 2870; Pub. L. 102-190, div. A, title XI, §1131(5), Dec. 5, 1991, 105 Stat. 1506.)

¹ See References in Text note below.

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1166(a) | 10:600m (less last 21 words of 3d sentence). 10:600(d) (as applicable to 10:600m). 34:430a (less last 21 words of 3d sentence). 34:135(d) (as applicable to 34:430a). | May 29, 1954, ch. 249, §§2(d) (as applicable to §15), 14(e) (as applicable to §15), 15 (less last 21 words of 3d sentence), 68 Stat. 157, 163, 164. |
| 1166(b) | 10:600(e) (as applicable to 10:600m). 34:430(e) (as applicable to 34:430a). | |

In subsection (a), the words “he shall be separated” are substituted for the words “his appointment as a permanent warrant officer of the Regular service and any other appointment which he may hold in any warrant officer or commissioned officer grade shall be terminated” and “his appointment shall be terminated”. The words “at least three” are substituted for the words “more than three” for clarity.

In subsection (b), the words “The Secretary concerned may defer” are substituted for the words “may, in the discretion of the Secretary, be deferred”. The words “not more than” are substituted for the words “a period not to exceed”. The words “he would otherwise be required to be retired or separated under this section” are substituted for the words “retirement * * * would otherwise be required”. The words “determination of his” are inserted for clarity. The words “which is required”, “possible”, “proper”, and “a period of” are omitted as surplusage.

Editorial Notes

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

Section 286a of title 14, referred to in subsec. (a), was redesignated section 2147 of title 14 by Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216, and references to section 286a of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115-282 note preceding section 101 of Title 14, Coast Guard.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-190 substituted “section 576” for “section 560”.

1980—Subsec. (a). Pub. L. 96-513 provided that officers discharged under this section are entitled, if eligible therefor, to separation pay under section 1174 or severance pay under section 286a of title 14.

1962—Subsec. (a). Pub. L. 87-649 substituted “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)” for “section 311 of title 37.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note pre-

ceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1167. Members under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the member has served in confinement for a period of six months.

(Added Pub. L. 104-106, div. A, title V, § 563(a)(1)(A), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 104-201, div. A, title X, § 1074(a)(6), Sept. 23, 1996, 110 Stat. 2659.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1167, acts Aug. 10, 1956, ch. 1041, 70A Stat. 91; June 28, 1962, Pub. L. 87-509, § 4(a), 76 Stat. 121; Sept. 7, 1962, Pub. L. 87-649, § 6(f)(3), 76 Stat. 494, related to severance pay of regular warrant officers, prior to repeal by Pub. L. 96-513, title I, § 109(b)(3), title VII, § 701, Dec. 12, 1980, 94 Stat. 2870, 2955, effective Sept. 15, 1981.

AMENDMENTS

1996—Pub. L. 104-201 substituted “member has served” for “person has served”.

§ 1168. Discharge or release from active duty: limitations

(a) A member of an armed force may not be discharged or released from active duty until his discharge certificate or certificate of release from active duty, respectively, and his final pay or a substantial part of that pay, are ready for delivery to him or his next of kin or legal representative.

(b) This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care.

(Added Pub. L. 87-651, title I, § 106(b), Sept. 7, 1962, 76 Stat. 508; amended Pub. L. 101-189, div. A, title XVI, § 1621(a)(4), Nov. 29, 1989, 103 Stat. 1603.)

HISTORICAL AND REVISION NOTES

The new section 1168 of title 10 is transferred from section 1218(a) and (c) of title 10 as being more appropriate in the chapter on separation.

Editorial Notes

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-189 substituted “facility of the Department of Veterans Affairs” for “Veterans’ Administration facility”.

Statutory Notes and Related Subsidiaries

MACHINE READABILITY AND ELECTRONIC TRANSFERABILITY OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)

Pub. L. 116-92, div. A, title V, § 569, Dec. 20, 2019, 133 Stat. 1397, provided that:

“(a) MODIFICATION REQUIRED.—The Secretary of Defense shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) to—

“(1) be machine readable and electronically transferable; and

“(2) include a specific block explicitly identified as the location in which a member of the Armed Forces may provide one or more email addresses by which the member may be contacted after discharge or release from active duty.

“(b) DEADLINE FOR MODIFICATION.—The Secretary of Defense shall release a revised Certificate of Release or Discharge from Active Duty (DD Form 214), modified pursuant to subsection (a), not later than four years after the date of the enactment of this Act [Dec. 20, 2019].

“(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit a report to Congress regarding the following:

“(1) What systems of the Department of Defense require an individual to manually enter information from DD Form 214.

“(2) What activities of the Department of Defense require a veteran or former member of the Armed Forces to provide a physical copy of DD Form 214.

“(3) The order of priority for modernizing items identified under paragraphs (1) and (2) as determined by the Secretary.

“(4) The estimated cost, as determined by the Secretary, to automate items identified under paragraphs (1) and (2).”

MODIFICATION OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214)

Pub. L. 110-181, div. A, title V, § 596, Jan. 28, 2008, 122 Stat. 139, provided that: “The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall modify the Certificate of Release or Discharge from Active Duty (DD Form 214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect that the DD-214 issued with regard to the member be forwarded to the following:

“(1) The Central Office of the Department of Veterans Affairs in the District of Columbia.

“(2) The appropriate office of the Department of Veterans Affairs for the State or other locality in which the member will first reside after such discharge or release.”

§ 1169. Regular enlisted members: limitations on discharge

No regular enlisted member of an armed force may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary concerned;

(2) by sentence of a general or special court martial; or

(3) as otherwise provided by law.

(Added Pub. L. 90-235, § 3(a)(1)(A), Jan. 2, 1968, 81 Stat. 757.)

§ 1170. Regular enlisted members: minority discharge

Upon application by the parents or guardian of a regular enlisted member of an armed force to the Secretary concerned within 90 days after the member's enlistment, the member shall be discharged for his own convenience, with the pay and form of discharge certificate to which his service entitles him, if—

(1) there is evidence satisfactory to the Secretary concerned that the member is under eighteen years of age; and