

(3) The term “covered relative” means—

(A) the primary next of kin of the covered employee;

(B) two family members (other than primary next of kin) of the covered employee; and

(C) one or more additional family members of the covered employee, at the discretion of the Secretary a sibling of the covered employee.

(Added Pub. L. 116-283, div. A, title XI, §1104(a)(1), Jan. 1, 2021, 134 Stat. 3889.)

REFERENCES IN TEXT

Section 481f of title 37, referred to in subsec. (a), was repealed by Pub. L. 117-81, div. A, title VI, §604(a), Dec. 27, 2021, 135 Stat. 1767.

CHAPTER 76—MISSING PERSONS

Sec.

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Editorial Notes

AMENDMENTS

2014—Pub. L. 113-291, div. A, title IX, §916(f)(2), Dec. 19, 2014, 128 Stat. 3479, added item 1501a and substituted “Program to resolve missing person cases” for “Program to resolve preenactment missing person cases” in item 1509.

2009—Pub. L. 111-84, div. A, title V, §541(b), Oct. 28, 2009, 123 Stat. 2298, substituted “Program to resolve preenactment missing person cases” for “Preenactment cases” in item 1509.

1996—Pub. L. 104-201, div. A, title V, §578(f)(2)(B), Sept. 23, 1996, 110 Stat. 2537, struck out “, special interest” after “Preenactment” in item 1509.

Statutory Notes and Related Subsidiaries

DETERMINATION AND REPORTING OF MEMBERS MISSING, ABSENT UNKNOWN, ABSENT WITHOUT LEAVE, AND DUTY STATUS-WHEREABOUTS UNKNOWN

Pub. L. 117-81, div. A, title V, §548, Dec. 27, 2021, 135 Stat. 1714, provided that:

“(a) COMPREHENSIVE REVIEW OF MISSING PERSONS REPORTING.—The Secretary of Defense shall instruct each Secretary of a military department to perform a comprehensive review of the policies and procedures of the military department concerned to determine and report a member of an Armed Force under the jurisdiction of such Secretary of a military department as missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

“(b) REVIEW OF INSTALLATION-LEVEL PROCEDURES.—In addition to such other requirements as may be set forth by the Secretary of Defense pursuant to subsection (a), each Secretary of a military department shall, with regard to the military department concerned—

“(1) direct each commander of a military installation, including any tenant command or activity present on such military installation, to review policies and procedures for carrying out the determination and reporting activities described in subsection (a); and

“(2) update such installation-level policies and procedures, including any tenant command or activity policies and procedures, to improve force protection, enhance security for members living on the military installation, and promote reporting at the earliest practicable time to local law enforcement (at all levels) and Federal law enforcement field offices with overlapping jurisdiction with that installation, when a member is determined to be missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

“(c) INSTALLATION-SPECIFIC REPORTING PROTOCOLS.—

“(1) IN GENERAL.—Each commander of a military installation shall establish a protocol applicable to all persons and organizations present on the military installation, including tenant commands and activities, for sharing information with local and Federal law enforcement agencies about members who are missing, absent-unknown, absent without leave, or duty status-whereabouts unknown. The protocol shall provide for the immediate entry regarding the member concerned in the Missing Persons File of the National Crimes Information Center data and for the commander to immediately notify all local law enforcement agencies with jurisdictions in the immediate area of the military installation, when the status of a member assigned to such installation has been determined to be missing, absent unknown, absent without leave, or duty status-whereabouts unknown.

“(2) REPORTING TO MILITARY INSTALLATION COMMAND.—Each commander of a military installation shall submit the protocol established pursuant to paragraph (1) to the Secretary of the military department concerned.

“(d) REPORT REGARDING NATIONAL GUARD.—Not later than June 1, 2022, the Secretary of Defense shall submit, to the Committees on Armed Services of the Senate and House of Representatives, a report on the feasibility of implementing subsections (a), (b), and (c), with regards to facilities of the National Guard. Such report shall include recommendations of the Secretary, including a proposed timeline for implementing the provisions of such subsections that the Secretary determines feasible.”

§ 1501. System for accounting for missing persons

(a) RESPONSIBILITY FOR MISSING PERSONS.—(1)(A) The Secretary of Defense shall designate a single organization within the Department of Defense to have responsibility for Department matters relating to missing persons from past conflicts, including accounting for missing persons and persons whose remains have not been recovered from the conflict in which they were lost.

(B) The organization designated under this paragraph shall be a Defense Agency or other entity of the Department of Defense outside the military departments and is referred to in this chapter as the “designated Defense Agency”.

(C) The head of the organization designated under this paragraph is referred to in this chapter as the “designated Agency Director”.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the designated Agency Director shall include the following:

(A) Policy, control, and oversight of the program established under section 1509 of this title.

(B) Responsibility for accounting for missing persons from past conflicts, including locating, recovering, and identifying missing persons from past conflicts or their remains after hostilities have ceased.

(C) Coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons from past conflicts.

(D) Dissemination of appropriate information on the status of missing persons from past conflicts to authorized family members.

(E) Establishment of a means for communication between officials of the designated Defense Agency and family members of missing persons from past conflicts, veterans service organizations, concerned citizens, and the public on the Department's efforts to account for missing persons from past conflicts, including a readily available means for communication of their views and recommendations to the designated Agency Director.

(3) In carrying out the responsibilities established under this subsection, the designated Agency Director shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

(4) The designated Agency Director shall establish policies, which shall apply uniformly throughout the Department of Defense, for personnel accounting (including locating, recovering, and identifying missing persons from past conflicts or their remains after hostilities have ceased).

(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

(A) the determination of the status of persons described in subsection (c); and

(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

(c) COVERED PERSONS.—(1) Section 1502 of this title applies in the case of any member of the armed forces on active duty—

(A) who becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(2) Section 1502 of this title applies in the case of any other person who is a citizen of the United States and a civilian officer or employee of the Department of Defense or (subject to paragraph (3)) an employee of a contractor of the Department of Defense—

(A) who serves in direct support of, or accompanies, the armed forces in the field under orders and becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(3) The Secretary of Defense shall determine, with regard to a pending or ongoing military operation, the specific employees, or groups of employees, of contractors of the Department of Defense to be considered to be covered by this subsection.

(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person described in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

(f) SECRETARY CONCERNED.—In this chapter, the term “Secretary concerned” includes, in the case of a civilian officer or employee of the Department of Defense or an employee of a contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the officer or employee or contracting with the contractor, as the case may be.

(Added Pub. L. 104-106, div. A, title V, § 569(b)(1), Feb. 10, 1996, 110 Stat. 336; amended Pub. L. 104-201, div. A, title V, § 578(a)(1), Sept. 23, 1996, 110 Stat. 2536; Pub. L. 105-85, div. A, title V, § 599(a)(1), Nov. 18, 1997, 111 Stat. 1766; Pub. L. 106-65, div. A, title X, § 1066(a)(13), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107-314, div. A, title V, § 551, Dec. 2, 2002, 116 Stat. 2551; Pub. L. 108-375, div. A, title V, § 582(a), Oct. 28, 2004, 118 Stat. 1928; Pub. L. 111-383, div. A, title IX, § 901(g), Jan. 7, 2011, 124 Stat. 4322; Pub. L. 113-66, div. A, title V, § 581(a), Dec. 26, 2013, 127 Stat. 773; Pub. L. 113-291, div. A, title IX, § 916(a), Dec. 19, 2014, 128 Stat. 3476; Pub. L. 114-328, div. A, title IX, § 953(a), Dec. 23, 2016, 130 Stat. 2376.)

Editorial Notes

AMENDMENTS

2016—Subsec. (a)(1)(A). Pub. L. 114-328, § 953(a)(1), inserted “from past conflicts” after “matters relating to missing persons”.

Subsec. (a)(2)(A). Pub. L. 114-328, §953(a)(2)(A), (B), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: "Policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons, including matters related to search, rescue, escape, and evasion."

Subsec. (a)(2)(B). Pub. L. 114-328, §953(a)(2)(B), (C), redesignated subpar. (C) as (B) and inserted "from past conflicts" after "missing persons" in two places. Former subpar. (B) redesignated (A).

Subsec. (a)(2)(C), (D). Pub. L. 114-328, §953(a)(2)(B), redesignated subpars. (D) and (E) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(2)(E), (F). Pub. L. 114-328, §953(a)(2)(B), (C), redesignated subpar. (F) as (E) and inserted "from past conflicts" after "missing persons" in two places.

Subsec. (a)(4). Pub. L. 114-328, §953(a)(3)(B), inserted "from past conflicts" after "missing persons".

Pub. L. 114-328, §953(a)(3)(A), which directed striking out "for personal recovery (including search, rescue, escape, and evasion) and" was executed by striking out "for personnel recovery (including search, rescue, escape, and evasion) and" after "Department of Defense," to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 114-328, §953(a)(4), struck out par. (5) which read as follows: "The designated Agency Director shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter."

2014—Subsec. (a). Pub. L. 113-291 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to responsibility for missing personnel, consisting of pars. (1) to (6).

2013—Subsec. (a)(1)(D). Pub. L. 113-66 added subpar. (D).

2011—Subsec. (a). Pub. L. 111-383, §901(g)(1), substituted "Responsibility for Missing Personnel" for "Office for Missing Personnel" in heading.

Subsec. (a)(1). Pub. L. 111-383, §901(g)(2)(A)–(C), in introductory provisions, substituted "designate within the Office of the Secretary of Defense an official as the Deputy Assistant Secretary of Defense for Prisoner of War/Missing Personnel Affairs to have responsibility for Department of Defense matters" for "establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy", struck out "Such office shall be known as the Defense Prisoner of War/Missing Personnel Office." after "persons.", and substituted "of the official designated under this paragraph" for "of the office".

Subsec. (a)(1)(B), (C). Pub. L. 111-383, §901(g)(2)(D)–(F), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(2). Pub. L. 111-383, §901(g)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111-383, §901(g)(3), (5), redesignated par. (2) as (3), struck out "of the office" after "responsibilities", and substituted "official designated under paragraph (1) and (2)" for "head of the office". Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 111-383, §901(g)(3), (6), redesignated par. (3) as (4), substituted "designated official" for "office", and inserted "and for personnel accounting (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased)" after "evasion". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 111-383, §901(g)(3), (7), redesignated par. (4) as (5) and substituted "designated official" for "office". Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 111-383, §901(g)(3), redesignated par. (5) as (6).

Subsec. (a)(6)(A). Pub. L. 111-383, §901(g)(8)(A)(ii), which directed the substitution of "activity" for "office" both places appearing, was executed by making the substitution in three places to reflect the probable intent of Congress.

Pub. L. 111-383, §901(g)(8)(A)(i), inserted "The Secretary of Defense shall establish an activity to account

for personnel who are missing or whose remains have not been recovered from the conflict in which they were lost. This activity shall be known as the Defense Prisoner of War/Missing Personnel Office." after "(A)".

Subsec. (a)(6)(B)(i). Pub. L. 111-383, §901(g)(8)(B), substituted "activity" for "to the office".

Subsec. (a)(6)(B)(ii). Pub. L. 111-383, §901(g)(8)(C), substituted "activity" for "to the office" and "of the activity" for "of the office".

Subsec. (a)(6)(C). Pub. L. 111-383, §901(g)(8)(D), substituted "activity" for "office".

2004—Subsec. (a)(5)(B). Pub. L. 108-375 designated existing provisions as cl. (i), inserted "whether temporary or permanent," after "civilian personnel", and added cl. (ii).

2002—Subsec. (a)(1). Pub. L. 107-314, §551(b), inserted "Such office shall be known as the Defense Prisoner of War/Missing Personnel Office." after first sentence.

Subsec. (a)(5). Pub. L. 107-314, §551(a), added par. (5).

1999—Subsec. (d). Pub. L. 106-65 substituted "described" for "prescribed" in first sentence.

1997—Subsec. (c). Pub. L. 105-85, §599(a)(1)(A), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(c) COVERED PERSONS.—Section 1502 of this title applies in the case of any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for."

Subsec. (f). Pub. L. 105-85, §599(a)(1)(B), added subsec. (f).

1996—Subsec. (c). Pub. L. 104-201, §578(a)(1)(A), substituted "applies in the case of" for "applies in the case of the following persons:" and "any member" for "(1) Any member" and struck out par. (2) which read as follows: "Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for."

Subsec. (f). Pub. L. 104-201, §578(a)(1)(B), struck out subsec. (f) which read as follows:

"(f) SECRETARY CONCERNED.—In this chapter, the term 'Secretary concerned' includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

RECOVERY AND IDENTIFICATION OF REMAINS OF CERTAIN WORLD WAR II SERVICEMEN LOST IN PACIFIC THEATER OF OPERATIONS

Pub. L. 106-65, div. A, title V, §576, Oct. 5, 1999, 113 Stat. 624, as amended by Pub. L. 107-107, div. A, title X, §1048(g)(3), Dec. 28, 2001, 115 Stat. 1228, provided that:

"(a) RECOVERY OF REMAINS.—(1) The Secretary of Defense shall make every reasonable effort to search for, recover, and identify the remains of United States servicemen lost in the Pacific theater of operations during World War II (including in New Guinea) while engaged in flight operations.

"(2) In order to provide high priority to carrying out paragraph (1), the Secretary of Defense shall consider increasing the number of personnel assigned to the Central Identification Laboratory, Hawaii.

"(3) Not later than September 30, 2000, the Secretary shall submit to Congress a report setting forth the ef-

forts made to accomplish the objectives specified in paragraph (1). The Secretary shall include in the report a statement of the backlog of cases at the Central Identification Laboratory, Hawaii, shown by conflict, and the status of the joint manning plan required by section 566(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2029).

“(b) DIPLOMATIC INTERVENTION IF REQUIRED.—The Secretary of State, upon request by the Secretary of Defense, shall work with officials of governments of nations in the area that was covered by the Pacific theater of operations of World War II to seek to overcome any diplomatic obstacles that may impede the Secretary of Defense from carrying out the objectives specified in subsection (a)(1).”

POW/MIA INTELLIGENCE ANALYSIS

Pub. L. 105-85, div. A, title IX, §934, Nov. 18, 1997, 111 Stat. 1866, as amended by Pub. L. 106-65, div. A, title X, §1066(c)(4), Oct. 5, 1999, 113 Stat. 773, provided that:

“(a) INTELLIGENCE ANALYSIS.—The Director of Central Intelligence, in consultation with the Secretary of Defense, shall provide intelligence analysis on matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) to all departments and agencies of the Federal Government involved in such matters.

“(b) USE OF INTELLIGENCE IN ANALYSIS OF POW/MIA CASES IN DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that the Defense Prisoner of War/Missing Personnel Office of the Department of Defense takes into full account all intelligence regarding matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) in analyzing cases involving such persons.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 104-106, div. A, title V, §569(a), Feb. 10, 1996, 110 Stat. 336, provided that: “The purpose of this section [enacting this chapter and section 655 of this title, amending sections 552, 553, 555, and 556 of Title 37, Pay and Allowances of the Uniformed Services, and enacting provisions set out as a note under section 5561 of Title 5, Government Organization and Employees] is to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time.”

§ 1501a. Public-private partnerships; other forms of support

(a) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary of Defense may enter into arrangements known as public-private partnerships with appropriate entities outside the Government for the purposes of facilitating the activities of the designated Defense Agency. The Secretary may only partner with foreign governments or foreign entities with the concurrence of the Secretary of State. Any such arrangement shall be entered into in accordance with authorities pro-

vided under this section or any other authority otherwise available to the Secretary. Regulations prescribed under subsection (f)(1) shall include provisions for the establishment and implementation of such partnerships. An employee of an entity outside the Government that has entered into a public-private partnership, cooperative agreement, or a grant arrangement with, or in direct support of, the designated Defense Agency under this section shall be considered to be an employee of the Federal Government by reason of participation in such partnership, cooperative agreement, or grant, only for the purposes of section 552a of title 5 (relating to maintenance of records on individuals).

(b) ACCEPTANCE OF VOLUNTARY PERSONAL SERVICES.—The Secretary of Defense may accept voluntary services to facilitate accounting for missing persons in the same manner as the Secretary of a military department may accept such services under section 1588(a)(9) of this title.

(c) COOPERATIVE AGREEMENTS AND GRANTS.—

(1) IN GENERAL.—The Secretary of Defense may enter into a cooperative agreement with, or make a grant to, a private entity for purposes related to support of the activities of the designated Defense Agency.

(2) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Notwithstanding section 3201(e) of this title, the Secretary may enter such cooperative agreements or grants on a sole-source basis pursuant to section 3204(a)(5) of this title.

(d) USE OF DEPARTMENT OF DEFENSE PERSONAL PROPERTY.—The Secretary may allow a private entity to use, at no cost, personal property of the Department of Defense to assist the entity in supporting the activities of the designated Defense Agency.

(e) ACCEPTANCE OF GIFTS.—

(1) AUTHORITY TO ACCEPT.—Subject to subsection (f)(2), the Secretary may accept, hold, administer, spend, and use any gift of personal property, money, or services made on the condition that the gift be used for the purpose of facilitating accounting for missing persons pursuant to section 1501(a)(2)(C) of this title.

(2) GIFT FUNDS.—Gifts and bequests of money accepted under this subsection shall be deposited in the Treasury in the Department of Defense General Gift Fund.

(3) USE OF GIFTS.—Personal property and money accepted under this subsection may be used by the Secretary, and services accepted under this subsection may be performed, without further specific authorization in law.

(4) EXPENSES OF TRANSFER.—The Secretary may pay all necessary expenses in connection with the conveyance or transfer of a gift accepted under this subsection.

(5) EXPENSES OF CARE.—The Secretary may pay all reasonable and necessary expenses in connection with the care of a gift accepted under this subsection.

(f) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe regulations to implement this section.

(2) LIMITATION.—Such regulations shall provide that acceptance of a gift (including a gift