

par. (2), could not be executed because “; and” did not appear in par. (2).

Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”. Subsec. (b)(3). Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”.

Subsec. (b)(4). Pub. L. 105-85, § 516(a)(2), added par. (4).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12684. Reserves: separation for absence without authority or sentence to imprisonment

The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

(1) who has been absent without authority for at least three months;

(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial; or

(3) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-106, div. A, title V, § 563(b)(2), Feb. 10, 1996, 110 Stat. 325.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(b) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

##### AMENDMENTS

1996—Pub. L. 104-106 struck out “or” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12685. Reserves separated for cause: character of discharge

A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2998.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(c) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

(a) LIMITATION.—Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system (other than the retirement system under chapter 1223 of this title), may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.

(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-201, div. A, title V, § 533, Sept. 23, 1996, 110 Stat. 2520; Pub. L. 108-375, div. A, title V, § 522, Oct. 28, 2004, 118 Stat. 1888.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(d) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

##### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 inserted “(other than the retirement system under chapter 1223 of this title)” after “retirement system”.

1996—Pub. L. 104-201 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.