

same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1008, §726; renumbered §3737 and amended Pub. L. 115-282, title I, §§118(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4233, 4240.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 782 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

##### AMENDMENTS

2018—Pub. L. 115-282, §118(b), renumbered section 726 of this title as this section.

Subsec. (a). Pub. L. 115-282, §123(b)(2), substituted “section 2150” for “section 289”.

#### § 3738. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, an individual, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that individual's experience, education, or other qualifications. For the purpose of this subchapter only, an individual appointed for the purpose of assignment or designation as a judge advocate in the Reserve shall be credited with a minimum of one year service in an active status. An individual holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1009, §727; amended Pub. L. 108-293, title II, §208, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 109-241, title II, §218(b)(1), July 11, 2006, 120 Stat. 526; renumbered §3738, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233; Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8505(a)(53), Jan. 1, 2021, 134 Stat. 4750.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 773 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

##### AMENDMENTS

2021—Pub. L. 116-283 substituted “an individual” for “a person” in two places, and substituted “individual's” for “person's” and “An individual” for “A person”.

2018—Pub. L. 115-282 renumbered section 727 of this title as this section.

2006—Pub. L. 109-241 substituted “judge advocate” for “law specialist”.

2004—Pub. L. 108-293 substituted “one year” for “three years” in second sentence.

#### § 3738a. Direct commissioning authority for individuals with critical skills

An individual with critical skills that the Commandant considers necessary for the Coast Guard to complete its missions who is not currently serving as an officer in the Coast Guard may be commissioned into the Coast Guard at a grade up to and including commander.

(Added Pub. L. 116-283, div. G, title LVXXXII [LXXXII], §8205(a), Jan. 1, 2021, 134 Stat. 4648.)

#### § 3739. Promotion of Reserve officers on active duty

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 21 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra