

accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of this title, or section 114, 115, or 502(f)(1)(B) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

(4) This subsection shall not apply to a member who—

(A) is involuntarily recalled to active duty or full-time National Guard duty; and

(B) in the course of such duty, incurs a service-connected disability rated as total under section 1155 of title 38.

(5) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

(k) **TERMINATION OF AUTHORITY.**—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2025.

(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.

(Added Pub. L. 109-163, div. A, title VI, § 643(a)(1), Jan. 6, 2006, 119 Stat. 3306; amended Pub. L. 109-364, div. A, title VI, § 623(a)(1), (2), Oct. 17, 2006, 120 Stat. 2256; Pub. L. 111-84, div. A, title X, § 1073(a)(14), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 111-383, div. A, title X, § 1075(b)(18), Jan. 7, 2011, 124 Stat. 4370; Pub. L. 112-81, div. A, title V, § 526, title VI, § 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1401, 1465; Pub. L. 112-239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 114-328, div. A, title V, §§ 508(c), 526, Dec. 23, 2016, 130 Stat. 2109, 2117; Pub. L. 116-92, div. A, title VI, § 603, Dec. 20, 2019, 133 Stat. 1423; Pub. L. 117-263, div. A, title VI, § 626(c)(4), Dec. 23, 2022, 136 Stat. 2628.)

Editorial Notes

REFERENCES IN TEXT

Chapter 24 of the Internal Revenue Code of 1986, referred to in subsec. (h)(2)(A), is classified generally to chapter 24 (§ 3401 et seq.) of Title 26, Internal Revenue Code.

AMENDMENTS

2022—Subsec. (e)(2)(B). Pub. L. 117-263 substituted “sections 452 and 453(c)” for “sections 474 and 476”.

2019—Subsec. (j)(1). Pub. L. 116-92, § 603(1), substituted “paragraphs (2), (3), and (4)” for “paragraphs (2) and (3)”.

Subsec. (j)(4), (5). Pub. L. 116-92, § 603(2), (3), added par. (4) and redesignated former par. (4) as (5).

2016—Subsec. (j)(2). Pub. L. 114-328, § 526(1), substituted “12304, 12304a, or 12304b” for “or 12304” and “502(f)(1)(A)” for “502(f)(1)”.

Subsec. (j)(3). Pub. L. 114-328, § 526(2), substituted “502(f)(1)(B)” for “502(f)(2)”.

Subsec. (k)(1). Pub. L. 114-328, § 508(c), substituted “December 31, 2025” for “December 31, 2018”.

2013—Subsec. (e)(2)(B). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(A). See 2011 Amendment note below.

2011—Subsec. (e)(2)(B). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “474” for “404” and “476” for “406”.

Subsec. (j)(3). Pub. L. 111-383 substituted “this title” for “title 10”.

Subsec. (k)(1). Pub. L. 112-81, § 526, substituted “December 31, 2018” for “December 31, 2012”.

2009—Subsec. (h)(1). Pub. L. 111-84 substituted “qualities” for “qualities”.

2006—Subsec. (f). Pub. L. 109-364, § 623(a)(1), substituted “four” for “two”.

Subsec. (k)(1). Pub. L. 109-364, § 623(a)(2), substituted “2012” for “2008”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

LIMITATION ON APPLICABILITY

Pub. L. 109-163, div. A, title VI, § 643(b), Jan. 6, 2006, 119 Stat. 3310, which provided that, during the period beginning on Jan. 6, 2006, and ending on Dec. 31, 2008, members eligible for separation and for voluntary separation pay and benefits under this section would be limited to officers who had met the eligibility requirements of this section, but had not completed more than 12 years of active service as of the date of separation, was repealed by Pub. L. 109-364, div. A, title VI, § 623(a)(3), Oct. 17, 2006, 120 Stat. 2256.

§ 1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

(a) **REGULAR MEMBERS.**—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 7314 or 9314 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 8330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

(b) **RESERVE MEMBERS IN ACTIVE STATUS.**—A reserve enlisted member serving in an active status who is selected to be involuntarily separated (other than for physical disability or for cause), or whose term of enlistment expires and who is denied reenlistment (other than for physical disability or for cause), and who on the date on which the member is to be discharged or transferred from an active status is entitled to be credited with at least 18 but less than 20 years of service computed under section 12732 of this title, may not be discharged, denied reenlistment, or transferred from an active status without the member's consent before the earlier of the following:

(1) If as of the date on which the member is to be discharged or transferred from an active status the member has at least 18, but less

than 19, years of service computed under section 12732 of this title—

(A) the date on which the member is entitled to be credited with 20 years of service computed under section 12732 of this title; or

(B) the third anniversary of the date on which the member would otherwise be discharged or transferred from an active status.

(2) If as of the date on which the member is to be discharged or transferred from an active status the member has at least 19, but less than 20, years of service computed under section 12732 of this title—

(A) the date on which the member is entitled to be credited with 20 years of service computed under section 12732 of this title; or

(B) the second anniversary of the date on which the member would otherwise be discharged or transferred from an active status.

(Added Pub. L. 102-484, div. A, title V, §541(a), Oct. 23, 1992, 106 Stat. 2412; amended Pub. L. 103-160, div. A, title V, §562(a), Nov. 30, 1993, 107 Stat. 1669; Pub. L. 104-106, div. A, title XV, §1501(c)(12), Feb. 10, 1996, 110 Stat. 499; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840.)

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AMENDMENTS

2018—Subsec. (a). Pub. L. 115-232 substituted “section 7314 or 9314” for “section 3914 or 8914” and “section 8330” for “section 6330”.

1996—Subsec. (b). Pub. L. 104-106 substituted “section 12732” for “section 1332” wherever appearing.

1993—Subsec. (b). Pub. L. 103-160 added subsec. (b) and struck out heading and text of former subsec. (b) which provided that a reserve enlisted member serving on active duty who was selected to be involuntarily separated, or whose term of enlistment expired and who was denied reenlistment, and who on the date on which the member was to be discharged or released from active duty was entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, could not be discharged or released from active duty without the member's consent before the earlier of certain dates.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title V, §562(b), Nov. 30, 1993, 107 Stat. 1669, provided that: “Subsection (b) of section 1176 of title 10, United States Code, as added by subsection (a), shall take effect as of October 23, 1992.”

§ 1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation

(a) **MEDICAL EXAMINATION REQUIRED.**—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operation, or sexually assaulted, during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing post-traumatic stress disorder or traumatic brain injury or who otherwise reasonably alleges, based on the service of the member while deployed, or based on such sexual assault, the influence of such a condition, receives a medical examination to evaluate a diagnosis of post-traumatic stress disorder or traumatic brain injury.

(2) A member covered by paragraph (1) shall not be administratively separated under conditions other than honorable, including an administrative separation in lieu of court-martial, until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

(3) In a case involving post-traumatic stress disorder, the medical examination shall be performed by a clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse. In cases involving traumatic brain injury, the medical examination may be performed by a physician, clinical psychologist, psychiatrist, or other health care professional, as appropriate.

(b) **PURPOSE OF MEDICAL EXAMINATION.**—The medical examination required by subsection (a) shall assess whether the effects of post-traumatic stress disorder or traumatic brain injury constitute matters in extenuation that relate to the basis for administrative separation under conditions other than honorable or the overall characterization of service of the member as other than honorable.

(c) **INAPPLICABILITY TO PROCEEDINGS UNDER UNIFORM CODE OF MILITARY JUSTICE.**—The medical examination and procedures required by this section do not apply to courts-martial or other proceedings conducted pursuant to the Uniform Code of Military Justice.

(Added Pub. L. 111-84, div. A, title V, §512(a)(1), Oct. 28, 2009, 123 Stat. 2280; amended Pub. L. 112-239, div. A, title V, §518, Jan. 2, 2013, 126 Stat. 1720; Pub. L. 113-66, div. A, title V, §522, Dec. 26, 2013, 127 Stat. 755; Pub. L. 114-328, div. A, title V, §524, Dec. 23, 2016, 130 Stat. 2116.)

Editorial Notes

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (c), is classified to chapter 47 (§801 et seq.) of this title.