

Subsec. (d)(3)(B). Pub. L. 113-66, § 1716(a)(3)(B), substituted “1044d, 1044e, and 1565b(a)(1)(A)” for “and 1044d”.

2009—Subsec. (a)(4). Pub. L. 111-84 substituted “the Secretary), for a period of time (prescribed by the Secretary)” for “the Secretary of Defense), for a period of time, prescribed by the Secretary of Defense.”.

2008—Subsec. (a)(6), (7). Pub. L. 110-181 added pars. (6) and (7).

2006—Subsecs. (d), (e). Pub. L. 109-163 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Subsec. (a)(4). Pub. L. 106-398, § 1 [[div. A], title V, § 524(a)(2)], added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 106-398, § 1 [[div. A], title V, § 524(b)], substituted “(3), and (4)” for “and (3)”.

Pub. L. 106-398, § 1 [[div. A], title V, § 524(a)(1)], redesignated par. (4) as (5).

1996—Subsec. (a). Pub. L. 104-201, § 583(d)(1), substituted “to the following persons:” for “to—” in introductory provisions.

Subsec. (a)(1). Pub. L. 104-201, § 583(c), (d)(2), (3), substituted “Members” for “members”, struck out “under his jurisdiction” after “armed forces”, and substituted a period for the semicolon at end.

Subsec. (a)(2). Pub. L. 104-201, § 583(c), (d)(2), (4), substituted “Members and” for “members and”, struck out “under his jurisdiction” after “former members”, and substituted a period for “; and” at end.

Subsec. (a)(3), (4). Pub. L. 104-201, § 583(a), added pars. (3) and (4) and struck out former par. (3) which read as follows: “dependents of members and former members described in clauses (1) and (2).”

Subsec. (c). Pub. L. 104-201, § 583(b), substituted “uniformed services described in subsection (a)” for “armed forces” and inserted “such” after “dependent of”.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 106-398, § 1 [[div. A], title V, § 524(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108, provided that: “Regulations to implement the amendments made by this section [amending this section] shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

LEGAL COUNSEL FOR VICTIMS OF ALLEGED DOMESTIC VIOLENCE OFFENSES

Pub. L. 116-92, div. A, title V, § 548, Dec. 20, 2019, 133 Stat. 1378, provided that:

“(a) IN GENERAL.—Not later than December 1, 2020, the Secretary of Defense shall carry out a program to provide legal counsel (referred to in this section as ‘Counsel’) to victims of alleged domestic violence offenses who are otherwise eligible for military legal assistance under section 1044 of title 10, United States Code.

“(b) FORM OF IMPLEMENTATION.—The program required under subsection (a) may be carried out as part of another program of the Department of Defense or through the establishment of a separate program.

“(c) TRAINING AND TERMS.—The Secretary of Defense shall ensure that Counsel—

“(1) receive specialized training in legal issues commonly associated with alleged domestic violence offenses; and

“(2) to the extent practicable, serve as Counsel for a period of not less than 2 years.

“(d) ATTORNEY-CLIENT RELATIONSHIP.—The relationship between a Counsel and a victim in the provision of legal advice and assistance shall be the relationship between an attorney and client.

“(e) PARALEGAL SUPPORT.—The Secretary of Defense shall ensure that sufficient trained paralegal support is provided to Counsel under the program.

“(f) REPORT REQUIRED.—

“(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 20, 2019], the

Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the program under subsection (a).

“(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

“(A) A description and assessment of the manner in which the Department of Defense will implement the program required under subsection (a).

“(B) An explanation of whether the program will be carried out as part of another program of the Department or through the establishment of a separate program.

“(C) A comprehensive description of the additional personnel, resources, and training that will be required to implement the program, including identification of the specific number of additional billets that will be needed to staff the program.

“(D) Recommendations for any modifications to law that may be necessary to effectively and efficiently implement the program.

“(g) ALLEGED DOMESTIC VIOLENCE OFFENSE DEFINED.—In this section, the term ‘alleged domestic violence offense’ means any allegation of—

“(1) a violation of section 928(b), 928b(1), 928b(5), or 930 of title 10, United States Code (article 128(b), 128b(1), 128b(5), or 130 of the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member;

“(2) a violation of any other provision of subchapter X of chapter 47 of such title (the Uniform Code of Military Justice), when committed against a spouse, intimate partner, or immediate family member; or

“(3) an attempt to commit an offense specified in paragraph (1) or (2) as punishable under section 880 of such title (article 80 of the Uniform Code of Military Justice).”

§ 1044a. Authority to act as notary

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the uniformed services.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the uniformed services, including reserve members when not in a duty status, who are designated by regulations of the uniformed services or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast

Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(6) All civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel (as defined in section 1044d(g) of this title).

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(Added Pub. L. 101-510, div. A, title V, § 551(a)(1), Nov. 5, 1990, 104 Stat. 1566; amended Pub. L. 104-201, div. A, title V, § 573, Sept. 23, 1996, 110 Stat. 2534; Pub. L. 107-107, div. A, title XI, § 1103, Dec. 28, 2001, 115 Stat. 1236; Pub. L. 114-328, div. A, title V, § 523(b), Dec. 23, 2016, 130 Stat. 2116; Pub. L. 116-259, title II, § 205(b)(1), Dec. 23, 2020, 134 Stat. 1167.)

Editorial Notes

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116-259, § 205(b)(1)(A), substituted “uniformed services” for “armed forces”.

Subsec. (b)(4). Pub. L. 116-259, § 205(b)(1)(B), substituted “uniformed services” for “armed forces” in two places.

2016—Subsec. (b)(6). Pub. L. 114-328 added par. (6).

2001—Subsec. (b)(2). Pub. L. 107-107, § 1103(a), substituted “legal assistance attorneys” for “legal assistance officers”.

Subsec. (b)(5). Pub. L. 107-107, § 1103(b), added par. (5). 1996—Subsec. (b)(1). Pub. L. 104-201, § 573(1), substituted “, including reserve judge advocates when not in a duty status” for “on active duty or performing inactive-duty training”.

Subsec. (b)(3). Pub. L. 104-201, § 573(2), substituted “adjutants, including reserve members when not in a duty status” for “adjutants on active duty or performing inactive-duty training”.

Subsec. (b)(4). Pub. L. 104-201, § 573(3), substituted “members of the armed forces, including reserve members when not in a duty status,” for “persons on active duty or performing inactive-duty training”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1044b. Military powers of attorney: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—A military power of attorney—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for powers of attorney under the laws of a State; and

(2) shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the State concerned.

(b) MILITARY POWER OF ATTORNEY.—For purposes of this section, a military power of attorney is any general or special power of attorney that is notarized in accordance with section 1044a of this title or other applicable State or Federal law.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, each military power of attorney shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a military power of attorney that does not include a statement described in that paragraph.

(d) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(Added Pub. L. 103-160, div. A, title V, § 574(a), Nov. 30, 1993, 107 Stat. 1674.)

§ 1044c. Advance medical directives of members and dependents: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—An advance medical directive executed by a person eligible for legal assistance—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to an advance medical directive that does not include a statement described in that paragraph.

(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce