

(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3182; amended Pub. L. 108-454, title VIII, §804(a), Dec. 10, 2004, 118 Stat. 3626.)

Editorial Notes

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-454 designated existing provisions as subpar. (A) and added subpar. (B).

§ 3330b. Preference eligibles; judicial redress

(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section, may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

(b) An election under this section may not be made—

(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3184; amended Pub. L. 108-454, title VIII, §804(b), Dec. 10, 2004, 118 Stat. 3626.)

Editorial Notes

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-454, which directed insertion of “, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section,” after “a preference eligible” in subsec. (a) of section 3330b, without specifying the Code title to be amended, was executed by making the insertion in subsec. (a) of this section, to reflect the probable intent of Congress.

§ 3330c. Preference eligibles; remedy

(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation

was willful, it shall award an amount equal to backpay as liquidated damages.

(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3184.)

§ 3330d. Appointment of military and Department of Defense civilian spouses

(a) DEFINITIONS.—In this section:

(1) The term “active duty”—

(A) has the meaning given that term in section 101(d)(1) of title 10;

(B) includes full-time National Guard duty (as defined in section 101(d)(5) of title 10); and

(C) for a member of a reserve component (as described in section 10101 of title 10), does not include training duties or attendance at a service school.

(2) The term “agency”—

(A) has the meaning given the term “Executive agency” in section 105 of this title; and

(B) does not include the Government Accountability Office.

(3) The term “remote work” refers to a particular type of telework under which an employee is not expected to report to an officially established agency location on a regular and recurring basis.

(4)¹ The term “spouse of a disabled or deceased member of the Armed Forces” means an individual—

(A) who is married to a member of the Armed Forces who—

(i) is retired, released, or discharged from the Armed Forces; and

(ii) on the date on which the member retires, is released, or is discharged, has a disability rating of 100 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

(B) who—

(i) was married to a member of the Armed Forces on the date on which the member dies while on active duty in the Armed Forces; and

(ii) has not remarried.

(5) The term “telework” has the meaning given the term in section 6501.

(4)¹ The term “spouse of an employee of the Department of Defense” means an individual who is married to an employee of the Department of Defense who is transferred in the interest of the Government from one official station within the Department to another within the Department (that is outside of normal commuting distance) for permanent duty.

(b) APPOINTMENT AUTHORITY.—The head of an agency may appoint noncompetitively—

(1) a spouse of a member of the Armed Forces on active duty;

(2) a spouse of a disabled or deceased member of the Armed Forces; or

¹ So in original. Two pars. (4) have been enacted.

(3)² a spouse of a member of the Armed Forces on active duty, or a spouse of a disabled or deceased member of the Armed Forces, to a position in which the spouse will engage in remote work.

(3)² a spouse of an employee of the Department of Defense.

(c) SPECIAL RULES REGARDING SPOUSE OF A DISABLED OR DECEASED MEMBER OF THE ARMED FORCES.—

(1) IN GENERAL.—An appointment of an eligible spouse as described in subparagraph (A) or (B) of subsection (a)(4) is not restricted to a geographical area.

(2) SINGLE PERMANENT APPOINTMENT.—A spouse of a disabled or deceased member of the Armed Forces may not receive more than 1 permanent appointment under this section.

(Added Pub. L. 112–239, div. A, title V, §566(a), Jan. 2, 2013, 126 Stat. 1749; amended Pub. L. 114–328, div. A, title XI, §1131, Dec. 23, 2016, 130 Stat. 2457; Pub. L. 115–232, div. A, title V, §573(a), (c), Aug. 13, 2018, 132 Stat. 1779; Pub. L. 118–31, div. A, title XI, §§1112(a), 1119(a), Dec. 22, 2023, 137 Stat. 429, 434.)

AMENDMENT OF SECTION

For expiration of amendments by Pub. L. 115–232 and Pub. L. 118–31 and revival of section, see Termination Date of 2018 Amendment and Termination Date of 2023 Amendment notes below.

Editorial Notes

AMENDMENTS

2023—Pub. L. 118–31, §1119(a)(1), (d), temporarily amended section catchline, inserting “and Department of Defense civilian” after “military”. See Termination Date of 2023 Amendment note below.

Subsec. (a)(3). Pub. L. 118–31, §1112(a)(1)(B), added par. (3). Former par. (3) redesignated (4) defining spouse of a disabled or deceased member of the Armed Forces.

Subsec. (a)(4). Pub. L. 118–31, §1119(a)(2), (d), temporarily added par. (4), defining spouse of an employee of the Department of Defense, at end of subsec. (a). See Termination Date of 2023 Amendment note below.

Pub. L. 118–31, §1112(a)(1)(A) redesignated par. (3) as (4) defining spouse of a disabled or deceased member of the Armed Forces.

Subsec. (a)(5). Pub. L. 118–31, §1112(a)(1)(C), added par. (5).

Subsec. (b)(3). Pub. L. 118–31, §1119(a)(3), (d), temporarily added par. (3) relating to a spouse of an employee of the Department of Defense. See Termination Date of 2023 Amendment note below.

Pub. L. 118–31, §1112(a)(2), added par. (3) relating to appointment of a spouse to a position in which the spouse will engage in remote work.

Subsec. (c)(1). Pub. L. 118–31, §1112(a)(3), substituted “subsection (a)(4)” for “subsection (a)(3)”.

2018—Pub. L. 115–232, §573(c), (e), temporarily amended section catchline generally, substituting “Appointment of military spouses” for “Appointment of certain military spouses”. See Termination Date of 2018 Amendment note below.

Subsec. (a)(3) to (6). Pub. L. 115–232, §573(a)(1), (e), temporarily redesignated par. (6) as (3) and temporarily struck out former pars. (3) to (5) which defined geographic area of the permanent duty station, permanent change of station, and relocating spouse of a member of the Armed Forces, respectively. See Termination Date of 2018 Amendment note below.

Subsecs. (b) to (d). Pub. L. 115–232, §573(a)(2)–(4), (e), temporarily added subsec. (b) relating to appointment authority, temporarily redesignated subsec. (d) as (c) and substituted “subsection (a)(3)” for “subsection (a)(6)” in par. (1), and temporarily struck out former subsecs. (b) and (c) relating to appointment authority and special rules regarding relocating spouse, respectively. See Termination Date of 2018 Amendment note below.

2016—Subsec. (c)(3). Pub. L. 114–328 added par. (3).

Statutory Notes and Related Subsidiaries

TERMINATION DATE OF 2023 AMENDMENT

Pub. L. 118–31, div. A, title XI, §1119(d), Dec. 22, 2023, 137 Stat. 435, provided that: “Effective on December 31, 2028—

“(1) the authority provided by this section [amending this section and enacting provisions set out as a note below], and the amendments made by this section [amending this section], shall expire; and

“(2) the provisions of section 3330d of title 5, United States Code, amended or repealed by this section are restored or revived as if this section had not been enacted.”

TERMINATION DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title V, §573(e), Aug. 13, 2018, 132 Stat. 1779, as amended by Pub. L. 117–263, div. A, title XI, §1111(a), Dec. 23, 2022, 136 Stat. 2820, provided that: “Effective on December 31, 2028—

“(1) the authority provided by this section [amending this section and enacting provisions set out as a note below], and the amendments made by this section [amending this section], shall expire; and

“(2) the provisions of section 3330d of title 5, United States Code, amended or repealed by such section are restored or revived as if such section had not been enacted.”

REGULATIONS

Pub. L. 112–239, div. A, title V, §566(b), Jan. 2, 2013, 126 Stat. 1751, provided that: “Not later than 180 after the date of the enactment of this Act [Jan. 2, 2013], the Director of the Office of Personnel Management shall amend section 315.612 of title 5, Code of Federal Regulations (relating to noncompetitive appointment of certain military spouses), in accordance with the amendment made by subsection (a) [enacting this section] and promulgate or amend any other regulations necessary to carry out the amendment made by subsection (a).”

OPM LIMITATION AND REPORTS

Pub. L. 118–31, div. A, title XI, §1119(c), Dec. 22, 2023, 137 Stat. 434, provided that:

“(1) RELOCATING SPOUSES.—With respect to the noncompetitive appointment of a relocating spouse of an employee of the Department of Defense under paragraph (3) of section 3330d(b) of title 5, United States Code, as added by subsection (a), the Director of the Office of Personnel Management shall—

“(A) monitor the number of those appointments;

“(B) require the head of each agency with the authority to make those appointments under that provision to submit to the Director an annual report on those appointments, including information on the number of individuals so appointed, the types of positions filled, and the effectiveness of the authority for those appointments; and

“(C) not later than 18 months after the date of enactment of this Act [Dec. 22, 2023], submit, to the Committees on Armed Services and Homeland Security and Governmental Affairs of the Senate and the Committees on Armed Services and Oversight and Accountability of the House of Representatives, a report on the use and effectiveness of the authority described in subparagraph (B).

“(2) NON-RELOCATING SPOUSES.—With respect to the noncompetitive appointment of a spouse of an em-

² So in original. Two pars. (3) have been enacted.

ployee of the Department of Defense other than a relocating spouse described in paragraph (1), the Director of the Office of Personnel Management—

“(A) shall treat the spouse as a relocating spouse under paragraph (1); and

“(B) may limit the number of those appointments.”

[For termination of section 1119(c) of Pub. L. 118–31, set out above, see Termination Date of 2023 Amendment note set out above.]

Pub. L. 115–232, div. A, title V, § 573(d), Aug. 13, 2018, 132 Stat. 1779, which related to limitations on the non-competitive appointment of relocating spouses and required reports, was repealed by Pub. L. 117–263, div. A, title XI, § 1111(b), Dec. 23, 2022, 136 Stat. 2820.

Executive Documents

EX. ORD. NO. 13832. ENHANCING NONCOMPETITIVE CIVIL SERVICE APPOINTMENTS OF MILITARY SPOUSES

Ex. Ord. No. 13832, May 9, 2018, 83 F.R. 22343, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1784 of title 10, United States Code, and sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Definitions.* (a) “Military spouse” means:

(i) the husband or wife of a member of the Armed Forces who, as determined by the Secretary of Defense, is performing active duty pursuant to orders that authorize a permanent change of station move, if such husband or wife relocates to the member’s new permanent duty station;

(ii) the husband or wife of a totally disabled retired or separated member of the Armed Forces; or

(iii) the unremarried widow or widower of a member of the Armed Forces killed while performing active duty.

(b) “Member of the Armed Forces” has the meaning set forth in 5 CFR 315.612(b)(4).

(c) “Agency” has the meaning set forth in section 3330d of title 5, United States Code.

(d) “Military spouse hiring authority” shall refer to the appointment authority set forth in 5 U.S.C. 3330d and 5 CFR 315.612.

SEC. 2. *Policy.* (a) Military spouses make critical contributions to the personal and financial success of our military families. Military service of spouses, however, often impairs the spouse’s ability to obtain and maintain employment, and to achieve career goals. Multiple and frequent relocations make it challenging for military spouses to maintain the home front, to comply with licensure and other job requirements, and to obtain adequate childcare.

(b) It shall be the policy of the United States to enhance employment support for military spouses. This policy will assist agencies in tapping into a pool of talented individuals and will promote the national interest of the United States and the well-being of our military families. It will also help retain members of the Armed Forces, enhance military readiness, recognize the tremendous sacrifices and service of the members of our Armed Forces and their families, and decrease the burden of regulations that can inhibit the entry of military spouses into the workforce.

SEC. 3. *Promoting Hiring for Military Spouses.* (a) To the greatest extent possible consistent with hiring needs, agencies shall, when filling vacant positions in the competitive service, indicate in job opportunity announcements (JOAs) that they will consider candidates under the military spouse hiring authority in addition to candidates identified on the competitive or merit promotion certificate for the position as well as those candidates identified through any other hiring authority a JOA indicates an agency will consider.

(b) Agencies shall actively advertise and promote the military spouse hiring authority and actively solicit applications from military spouses for posted and other agency positions (including through USAJOBS).

(c) The Office of Personnel Management (OPM) shall consider whether changes to 5 CFR 315.612 are appro-

priate to account for cases in which there are no agency job openings within the geographic area of the permanent duty station of the member of the Armed Forces for which the member’s spouse is qualified.

(d) OPM shall also periodically circulate notifications concerning the military spouse hiring authority and its eligibility requirements to each agency’s Chief Human Capital Officer or the agency’s equivalent officer, for such officer to transmit to appropriate offices and to notify eligible populations. Within 180 days of the date of this order [May 9, 2018], OPM shall post to its website, and circulate to each agency’s Chief Human Capital Officer or the agency’s equivalent officer, information about the military spouse hiring authority. That posting shall include a discussion of section 1131 of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114–328, which amended 5 U.S.C. 3330d(c) to eliminate the time limitation on non-competitive appointment for a relocating spouse of a member of the Armed Forces.

(e) Within 180 days of the date of this order, OPM shall educate agencies concerning the military spouse hiring authority and ensure human resources personnel and hiring managers are briefed on techniques for its effective use. Concurrently, within 180 days of the date of this order, OPM shall provide any additional clarifying guidance it deems appropriate to agencies on provisions of the Telework Enhancement Act of 2010, Public Law 111–292 [enacting chapter 65 and section 5711 of this title and provisions set out as a note under section 6501 of this title and amending provisions set out as a note and provisions listed in a table under section 6120 of this title], and agencies shall ensure that human resources personnel and hiring managers are briefed as needed on techniques for the effective use of telework.

(f) Beginning in Fiscal Year 2019, agencies shall report annually (by December 31 of each year) to OPM and the Department of Labor the number of positions made available under the military spouse hiring authority, the number of applications submitted under the military spouse hiring authority, and the number of military spouses appointed under the military spouse hiring authority during the preceding fiscal year. Such report shall also describe actions taken during that period to advertise the military spouse hiring authority, as well as any other actions taken to promote the hiring of military spouses.

SEC. 4. *Administrative Provisions.* (a) The Director of OPM shall administer this order and shall, in coordination with the Secretary of Labor, through the Assistant to the President for Domestic Policy, provide an annual report to the President regarding the implementation of this order and any recommendations for improving the hiring of military spouses, including steps to enhance the effectiveness of the military spouse hiring authority.

(b) The annual report described in subsection (a) of this section shall also include recommendations, developed in consultation with the Secretary of Defense and the Secretary of Homeland Security, for actions that could be taken to improve license portability and remove barriers to the employment of military spouses.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 14100. ADVANCING ECONOMIC SECURITY FOR MILITARY AND VETERAN SPOUSES, MILITARY CAREGIVERS, AND SURVIVORS

Ex. Ord. No. 14100, June 9, 2023, 88 F.R. 39111, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* Military-connected families are American working families. Military and veteran families, military caregivers, and survivors face many of the same challenges as their neighbors, but they can carry the additional strains of multiple deployments; frequent moves with little control over their geographic location; caring for wounded, ill, and injured service members or veterans; time apart for training and other demands of military life; and more. The unique demands of military life continue to affect veteran families, military caregivers, and survivors for years after a service member's time in uniform.

Military families, like their civilian counterparts, increasingly look to rely upon dual incomes; however, the 21 percent unemployment rate experienced by active-duty military spouses in the workforce makes that a difficult goal to achieve and maintain. Nearly one in five military families cite challenges with spousal employment as a reason when considering leaving active-duty service. The challenges associated with the military lifestyle, including permanent change-of-station moves every 2 to 3 years on average for active-duty families, mean that military spouses often struggle to find options for work that are portable or allow them to build a sustainable long-term career. Employment challenges are not limited to active-duty spouses, as Reserve and National Guard spouses must balance their careers against the unpredictable nature of the service member's schedule, activations, and deployments. Employment challenges can continue to affect the employability and career trajectory of veteran spouses well after a service member leaves the service.

Recognizing the importance of military family economic well-being to the all-volunteer force, the Federal Government employs more than 16,000 military, veteran, and surviving spouses. As the Nation's largest employer, we must be a model for diversity, equity, inclusion, and accessibility, and, in doing so, we recognize that military spouses are an underserved community. Whether they choose public service, employment in the private sector, or entrepreneurship through building a small business, it is the policy of my Administration to advance economic opportunity for military spouses. My Administration also recognizes the imperative of promoting economic security for military spouses—the vast majority of whom are women—under the National Strategy on Gender Equity and Equality.

In addition, my Administration understands that access to high-quality, affordable child care is a necessity for working families, and a military readiness issue. While the Department of Defense offers the largest employer-sponsored child care network in the country, military families still face challenges related to capacity and non-traditional work schedules. Many military families seeking care outside of the gates of our military bases struggle to find care they can afford. Because access to child care should not be an impediment to service, I have directed the Secretary of Defense to ensure the Fourteenth Quadrennial Review of Military Compensation, undertaken in January 2023, includes an assessment of child care access and cost in its review of military benefits and pay, along with consideration of factors such as the challenge of military spouse unemployment, frequent military moves, and periods of geographic separation between service members and their spouses, including dual military couples.

Military spouses can also be service members themselves, wearing the Nation's uniform in our Active Components, National Guard, or Reserve forces, with a higher percentage of women service members in a dual military marriage than their male counterparts. As we recognize the 75th anniversary of women's integration

into the Armed Forces, my Administration is committed to removing barriers to women's ability to serve, including difficulty in accessing child care, which poses a challenge for both spouses, but disproportionately affects retention for women, especially women in dual military couples, and can play a factor in women's early separation from the Armed Forces.

As we commemorate the 50th anniversary of the all-volunteer force, we must appreciate now more than ever that the commitment and resilience of military-connected families are essential to the recruitment, retention, and readiness of our Armed Forces and the enduring strength of our Nation. Meeting the economic, social, and emotional needs of our military and veteran families, military caregivers, and survivors is a national security imperative. In times of peace and of war, military and veteran families, military caregivers, and survivors have sacrificed much for our country, answering the call to duty time and again. We owe them nothing less than the dignity of a meaningful career and the opportunity to build economic security for their families.

SEC. 2. *Government-wide Military and Veteran Spouse, Military Caregiver, and Survivor Hiring and Retention Strategic Plan and Training.* Given the considerable Federal footprint around many military installations, military spouses are often interested in pursuing careers in the Federal civil service. To ensure that the Federal Government is an employer of choice for military and veteran spouses, military caregivers, and survivors, executive departments and agencies (agencies) must strengthen their ability to recruit, hire, develop, promote, and retain this skilled and diverse pool of talent. To that end:

(a) The Director of the Office of Personnel Management (OPM) and the Deputy Director for Management of the Office of Management and Budget, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Homeland Security, shall develop and issue a Government-wide Military and Veteran Spouse, Military Caregiver, and Survivor Hiring and Retention Strategic Plan (Military-Connected Plan) within 180 days of the date of this order [June 9, 2023] that builds upon the Government-wide plans required by Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce) [42 U.S.C. 2000e note], and Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce) [42 U.S.C. 2000e note]. The Military-Connected Plan shall be updated as appropriate and at a minimum every 4 years. The Military-Connected Plan shall:

(i) define measures of success for the recruitment, hiring, and retention of military and veteran spouses, military caregivers, and survivors based on leading policies and practices in the public, private, and non-profit sectors;

(ii) include plans for OPM to consult with the Department of Defense and the Department of Homeland Security in developing enhanced support for the retention of military spouses in Federal careers, consistent with merit system principles as defined in 5 U.S.C. 2301;

(iii) consistent with merit system principles, identify strategies—including pursuing development of a legislative proposal, as appropriate—to eliminate, where applicable, barriers to the employment of military and veteran spouses, military caregivers, and survivors in the Federal workforce, including with respect to recruitment; hiring, including an assessment of whether to pursue expanded eligibility for derivative preference; promotion; retention; performance evaluations and awards; professional development programs; mentoring programs or sponsorship initiatives; internship, fellowship, and registered apprenticeship programs; employee resource group and affinity group programs; and training, learning, and onboarding programs;

(iv) identify strategies for marketing the talent, experience, and diversity of military and veteran spouses, military caregivers, and survivors to agencies; and

(v) develop a data-driven approach to increasing transparency and accountability in hiring and retention—including by encouraging agencies to set goals for hiring under the Military Spouse Noncompetitive Appointment Authority established by 5 U.S.C. 3330d and hiring individuals eligible for derivative preference, to use data internally to improve performance, and to use data to publicly report on progress—which would build upon, as appropriate, the reporting requirements of Executive Order 13832 of May 9, 2018 (Enhancing Noncompetitive Civil Service Appointments of Military Spouses) [set out above].

(b) Beginning with Fiscal Year 2025, the Director of OPM shall revise the title of the “Employment of Veterans in the Federal Executive Branch” annual report to “Employment of Veterans and Military-Connected Spouses and Survivors in the Federal Executive Branch,” and shall include in the report the existing data previously reported in the “Employment of Veterans in the Federal Executive Branch” report, including statistics on the hiring of military and veteran spouses and survivors in a manner that allows for comparison and analysis of the distinct populations and hiring mechanisms.

(c) The Secretary of Veterans Affairs and the Director of OPM shall collaborate on opportunities to better share Federal employee survey data to enable analysis and reporting relevant to the employment of military and veteran spouses and survivors.

(d) In collaboration with the Director of OPM and consistent with 5 U.S.C. 4103, agencies shall provide annual training for agency human resources personnel and hiring managers concerning the employment of military and veteran spouses, military caregivers, and survivors, including training on special authorities for the hiring of military spouses and survivors, and the provision of tools to build the agencies’ capacity to make use of applicable hiring authorities, including distribution of the Joining Forces military spouse hiring toolkit, which OPM shall publish on the FedHireVets website.

(e) The Office of Science and Technology Policy (OSTP) National Science and Technology Council Subcommittee on Equitable Data, as designated by Executive Order 14091 of February 16, 2023 (Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government) [5 U.S.C. 601 note], shall develop recommendations on ways in which agencies can expand Federal datasets to track outcomes for military and veteran spouses, military caregivers, and survivors. Such recommendations shall be included in the Director of OSTP’s reports to the White House Steering Committee on Equity under section 9 of Executive Order 14091.

(f) The Secretaries of Defense, Labor, Veterans Affairs, and Homeland Security shall work together through existing interagency collaborations, including the Transition Assistance Program, to increase training and employment opportunities for military spouses in the workforce through the transition to veteran spouse status.

SEC. 3. Updates to Federal Training and Hiring Authorities. To strengthen the ability of the Federal Government to train, develop, and hire military and veteran spouses and survivors:

(a) Beginning with Fiscal Year 2025, agencies shall list the Military Spouse Noncompetitive Appointment Authority established by 5 U.S.C. 3330d when soliciting applications from outside of their workforce for positions announced on USAJOBS or other job posting sites. This requirement applies when using merit promotion procedures to fill competitive service positions.

(b) The Secretary of Labor shall examine the eligibility of military and veteran spouses for programs that provide education, job training, employment services, employer engagement, and other relevant programs, and, as appropriate, shall work to reduce barriers that military and veteran spouses may face in accessing those programs.

(c) The Director of OPM shall examine the eligibility criteria for the Recent Graduates Program established

by section 2 of Executive Order 13562 of December 27, 2010 (Recruiting and Hiring Students and Recent Graduates) [5 U.S.C. 3301 note], and, as appropriate, including by recommending Presidential action as necessary, shall work to reduce barriers that military spouses may face in accessing the Program.

SEC. 4. Retention of Military and Veteran Spouses and Military Caregivers, Including Those Employed by the Federal Government. In order to support military and veteran spouses and military caregivers, including those who are employed by the Federal Government:

(a) The Director of OPM shall issue guidance to agencies:

(i) reinforcing existing telework and remote work flexibility options pursuant to 5 U.S.C. 6502 for Federal employees, including military spouses and military caregivers, and encouraging agency leaders to consider these as options for retaining Federal employee military spouses and military caregivers;

(ii) encouraging agencies to support the policies set forth in section 1 of this order by granting up to 5 days of administrative leave to military spouses during a geographic relocation occurring as directed by a service member’s orders; and

(iii) encouraging agencies to collaborate so that a military spouse or military caregiver Federal employee may be placed in another Federal agency position when arrangements to retain a military spouse or military caregiver—including following changes to support continuity of care or relocation due to permanent change-of-station orders for the active-duty service member—are unavailable to allow them to continue in their existing position.

(b) The Secretary of State and the Secretary of Defense, when reevaluating or entering agreements with host nations, shall consider work options for military spouses who are performing remote work for non-Department of Defense entities, so as to reduce barriers for military spouses seeking to continue their private sector- or self-employment.

(c) The Secretary of Defense shall coordinate with the heads of the Military Departments, and the Secretary of Homeland Security shall coordinate with the Commandant of the United States Coast Guard, to amend their respective legal assistance instructions to allow for consultation, advice, and assistance to military families on Status of Forces Agreements and other agreements with host nations affecting family employment, so as to provide support for military spouses navigating complex employment requirements related to working remotely while their active-duty service member spouse is stationed overseas. Those amendments shall specify that legal assistance is limited to the personal civil legal affairs of military dependents affected by employment restrictions related to a Status of Forces Agreement or other host nation agreement, and does not extend to their employers or the establishment, management, or taxation of small business organizations.

SEC. 5. Domestic Employees Teleworking Overseas Policy. In order to ensure that military spouses are able to equitably and reasonably access opportunities for remote work in their Federal jobs when their service-member spouse receives orders overseas, promote togetherness for military families, and enable agencies that employ military spouses—resilient and talented civil servants—to retain them, the following improvements shall be made to the Domestic Employees Teleworking Overseas (DETO) program implemented by agencies pursuant to the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) [see Tables for classification]:

(a) The Secretary of State and the Secretary of Defense shall enter into a Memorandum of Understanding (MOU) to address residential security and safety requirements for military spouses employed by the Federal Government and working overseas through the DETO program. The MOU shall be communicated to sponsoring agencies, and the Secretaries of State and Defense shall develop appropriate guidance to commu-

nicate the provisions of the MOU to military spouses who are civilian employees of the Federal Government.

(b) To promote consistency and effective coordination in the implementation of the DETO program across the executive branch, agencies shall:

(i) develop common standards for DETO policies, including identification of points of contact and creation of guidelines to ensure that such policies are communicated and advertised in a manner accessible to military spouse employees;

(ii) establish a DETO application system and develop a method to track DETO applications received and processed, as well as application processing timelines; and

(iii) establish time frames for DETO application processing and approvals, considering the time-sensitive nature of decisions for applications by military spouses due to permanent change-of-station moves and other factors unique to military families.

SEC. 6. *Expanding Support for Military and Veteran Spouse Entrepreneurs.* Many military spouses start their own businesses because of a need for flexibility or inability to find or maintain other employment. When military spouses must discontinue their businesses, however, they often cite military moves, rather than lack of profitability, as the reason. To support military spouse entrepreneurs in starting and sustaining their businesses, the Administrator of the Small Business Administration shall:

(a) expand access to resources tailored to military and veteran spouses who are interested in starting or growing a small business, including guidance to help military spouses with relocating a business following a military move; and

(b) evaluate access to capital gaps for military spouse entrepreneurs.

SEC. 7. *Child Care for Military Families.* The Department of Defense operates the largest employer-sponsored child care program in the United States in order to provide military families with support that is essential to overall mission readiness, retention, and recruitment. To build on the existing support and ensure that military families have access to affordable, high-quality child care allowing both the service member and the spouse to pursue professional opportunities, the Secretary of Defense shall:

(a) in coordination with the Director of OPM, establish flexible spending accounts for the care of military dependents, available to military personnel no later than January 1, 2024; and

(b) expand pathways for military spouses to provide certified, home-based child care on military installations, including by providing them with support in seeking licensure and achieving government-mandated quality benchmarks.

SEC. 8. *Definitions.* For the purposes of this order:

(a) The term “active duty” has the meaning set forth in 10 U.S.C. 101(d)(1), except that the term also includes “active Guard and Reserve duty,” as defined in 10 U.S.C. 101(d)(6)(a).

(b) The term “agency” means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(c) The term “derivative preference” means those who are “preference eligible,” as defined in 5 U.S.C. 2108(3), because they are eligible spouses and parents who use a veteran’s preference when the veteran is unable to do so.

(d) The term “military caregiver” means the spouse, child, parent, or next of kin of a veteran who is the primary caregiver for a veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness who was a member of the Armed Forces (including a member of the National Guard or Reserves) and who was discharged or released under conditions other than dishonorable.

(e) The term “military spouse” means an individual married to a member of the Armed Forces who is performing active duty.

(f) The term “survivor” means the spouse, child, parent, or next of kin of a service member who died while on active duty, or from a service-connected disability following discharge or release under conditions other than dishonorable.

(g) The term “veteran spouse” means an individual married to a retired or separated member of the Armed Forces who was discharged or released under conditions other than dishonorable, so long as the marriage occurred prior to or during the service member’s active service.

SEC. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 3330e. Review of official personnel file of former Federal employees before rehiring

(a) If a former Government employee is a candidate for a position within the competitive service or the excepted service, prior to making any determination with respect to the appointment or reinstatement of such employee to such position, the appointing authority shall review and consider merit-based information relating to such employee’s former period or periods of service such as official personnel actions, employee performance ratings, and disciplinary actions, if any, in such employee’s official personnel record file.

(b) In subsection (a), the term “former Government employee” means an individual whose most recent position with the Government prior to becoming a candidate as described under subsection (a) was within the competitive service or the excepted service.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. Such regulations may not contain provisions that would increase the time required for agency hiring actions.

(Added Pub. L. 114–328, div. A, title XI, § 1136(a), Dec. 23, 2016, 130 Stat. 2460.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 114–328, div. A, title XI, § 1136(b), Dec. 23, 2016, 130 Stat. 2460, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to any former Government employee (as described in section 3330e of title 5, United States Code, as added by such subsection) appointed or reinstated on or after the date that is 180 days after the date of enactment of this Act [Dec. 23, 2016].”

§ 3330f. Government policy and supporting position data

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means—

(A) any Executive agency, the United States Postal Service, and the Postal Regulatory Commission;