

Public Law 90-631

AN ACT

October 23, 1968
[H. R. 16025]

To amend title 38 of the United States Code with respect to eligibility for, and the period of limitation on, educational assistance available under part III of such title, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1502(b) of title 38, United States Code, is amended by adding at the end thereof the following new sentence: "If the veteran has pursued an educational or training program under chapters 33 (prior to its repeal), 34 or 35 of this title, such program shall be utilized to the fullest extent practical in determining the character and duration of the vocational rehabilitation to be furnished him under this chapter."

Veterans.
Vocational re-
habilitation.
72 Stat. 1171.

(b) Section 1661 of title 38, United States Code, is amended—

Educational as-
sistance, eligi-
bility.
80 Stat. 13.

(1) by amending subsection (a) to read as follows:
“(a) Except as provided in subsection (c) and in the second sentence of this subsection, each eligible veteran shall be entitled to educational assistance under this chapter for a period of one and one-half months (or the equivalent thereof in part-time educational assistance) for each month or fraction thereof of his service on active duty after January 31, 1955. If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy his active duty obligation, he shall be entitled to educational assistance under this chapter for a period of 36 months (or the equivalent thereof in part-time educational assistance).”

S. 3349
amended

(2) by striking out subsections (b) and (d),

(3) by redesignating subsection (c) as subsection (b), and

(4) by adding at the end thereof the following new subsection:

“(c) Except as provided in subsection (b) and in section 1678 of this title, no eligible veteran shall receive educational assistance under this chapter in excess of thirty-six months.”

(c) Section 1711 of title 38, United States Code, is amended by striking out subsections (b) and (c), and by redesignating subsection (d) as subsection (b).

72 Stat. 1194;
78 Stat. 297.

(d) (1) Subchapter II of chapter 36 of title 38, United States Code, is amended by adding at the end thereof the following new section:

80 Stat. 21-23.

“§ 1791. Limitation on period of assistance under two or more programs

“The aggregate period for which any person may receive assistance under two or more of the laws listed below—

“(1) parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

38 USC 1952
Ed., ch. 12A;
72 Stat. 1272.
66 Stat. 663.

“(2) title II of the Veterans' Readjustment Assistance Act of 1952;

“(3) the War Orphans' Educational Assistance Act of 1956;

70 Stat. 411.

“(4) Chapters 31, 34, and 35 of this title, and the former chapter 33

38 USC 1501,
1651, 1701, 1601.

may not exceed forty-eight months (or the part-time equivalent thereof), but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone.”

(2) The table of sections of chapter 36 of title 38, United States Code, is amended by adding at the end thereof the following:

“1791. Limitation on period of assistance under two or more programs.”

SEC. 2. (a) (1) Subchapter I of chapter 35 of title 38, United States Code, is amended by inserting immediately before section 1701 the following new section:

72 Stat. 1193.
38 USC 1701.

War orphans' educational assistance.

“§ 1700. Purpose

“The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War, and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the disability or death of such parent. The Congress further declares that the educational program extended to the widows of veterans who died of service-connected disabilities and to wives of veterans with a service-connected total disability permanent in nature is for the purpose of assisting them in preparing to support themselves and their families at a standard of living level which the veteran, but for his death or service disability, could have expected to provide for his family.”

(2) The table of sections of chapter 35 of title 38, United States Code, is amended by adding immediately before

“1701. Definitions.”

the following:

“1700. Purpose.”

72 Stat. 1193.

(b) Paragraph (1) of section 1701(a) of title 38, United States Code, is amended to read as follows:

“(1) The term ‘eligible person’ means—

“(A) a child of a person who—

“(i) died of a service-connected disability, or

“(ii) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence,

“(B) the widow of any person who died of a service-connected disability, or

“(C) the wife of any person who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.”

78 Stat. 297.

(c) Subsection (d) of section 1701 of title 38, United States Code, is amended to read as follows:

“(d) No eligible person may be afforded educational assistance under this chapter unless he was discharged or released after each period he was on duty with the Armed Forces under conditions other than dishonorable, or while he is on duty with the Armed Forces.”

Ante, p. 1331.

(d) Subsection (b) of section 1711 of title 38, United States Code (as redesignated by subsection (c) of the first section of this Act), is amended to read as follows:

“(b) If any eligible person pursuing a program of education, or of special restorative training, under this chapter ceases to be an ‘eligible person’ because—

“(1) the parent or spouse from whom eligibility is derived is found no longer to have a ‘total disability permanent in nature’, as defined in section 1701(a) (10) of this title, or

“(2) she, as an eligible person under section 1701(a) (1) (C) of this title, is divorced, without fault on her part, from the person upon whose disability her eligibility is based,

then such eligible person (if he or she has sufficient remaining entitlement) may, nevertheless, be afforded educational assistance under this chapter until the end of the quarter or semester for which enrolled if the educational institution in which he or she is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until nine weeks have expired, whichever first occurs."

(e) Section 1712 of title 38, United States Code, is amended—

72 Stat. 1194.

(1) by inserting immediately after "eligible person" the first place where it appears in subsection (a) thereof the following: "(within the meaning of section 1701(a)(1)(A))", and

(2) by amending subsection (b) thereof to read as follows:

"(b) No person made eligible by section 1701(a)(1)(B) or (C) of this chapter may be afforded educational assistance under this chapter beyond eight years after whichever last occurs:

"(1) the date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature, or

"(2) the date of death of the spouse from whom eligibility is derived."

(f) In the case of any person who is an eligible person by reason of subparagraph (B) or (C) of section 1701(a)(1) of title 38, United States Code (as added by subsection (b) of this section), if the date of death or the date of the determination of service-connected total disability permanent in nature of the person from whom eligibility is derived occurred before the effective date of this section, the eight-year delimiting period referred to in section 1712(b) of such title (as amended by subsection (e) (2) of this section) shall run from such effective date.

(g) Section 1720 of title 38, United States Code, is amended—

72 Stat. 1195.

(1) by inserting "(a)" immediately before the first word thereof,

(2) by inserting in the first sentence thereof immediately after "assistance" and before the comma the following: "for a person eligible within the meaning of section 1701(a)(1)(A)"; and

(3) by adding at the end thereof the following new subsection:

"(b) The Administrator may, on request, arrange for educational counseling for persons eligible for educational assistance under section 1701(a)(1)(B) or (C) of this chapter."

(h) (1) The heading of chapter 35 of title 38, United States Code, is amended by inserting "**AND WIDOWS**" immediately after "**WAR ORPHANS**".

(2) The analysis of part III of title 38, United States Code, and the analysis of such title, are each amended by striking out:

"35. War Orphan's Educational Assistance----- 1701"

and inserting in lieu thereof:

"35. War Orphans' and Widows' Educational Assistance----- 1700".

SEC. 3. (a) Paragraph (2) of section 1682(c) of title 38, United States Code, is amended to read as follows:

80 Stat. 13.

"(2) The period of entitlement of any eligible veteran who is pursuing any program of education exclusively by correspondence shall be charged with one month for each \$130 which is paid to the veteran as an educational assistance allowance for such course."

(b) Section 1682 of title 38, United States Code, is amended—

(1) by inserting after "program" where it first appears in subsection (a)(2) the following: "other than a 'farm cooperative' program,"; and

(2) by amending subsection (d) to read as follows:

“(d) (1) An eligible veteran who is enrolled in an educational institution for a ‘farm cooperative’ program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

“(A) a full-time basis (a minimum of 12 clock hours per week),

“(B) a three-quarter-time basis (a minimum of 9 clock hours per week), or

“(C) a half-time basis (a minimum of 6 clock hours per week) shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator.

“(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran’s dependency status) opposite the basis shown in column I:

“Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in Column IV, plus the following for each dependent in excess of two:
Full-time-----	\$105	\$125	\$145	\$7
Three-quarter-time--	75	90	105	5
Half-time-----	50	60	70	3”.

77 Stat. 159.

SEC. 4. Section 1774 of title 38, United States Code, is amended—

(1) by inserting “(a)” immediately before the first word thereof,

(2) by inserting immediately after “expenses of salary and travel incurred by employees of such agencies” in the first sentence thereof the following: “and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section”; and

(3) by adding at the end thereof the following new subsection: “(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

“Total salary cost reimbursable under this section	Allowance for administrative expense
\$5,000 or less-----	\$250.
Over \$5,000 but not exceeding \$10,000--	\$450.
Over \$10,000 but not exceeding \$35,000--	\$450 for the first \$10,000 plus \$400 for each additional \$5,000 or fraction thereof.
Over \$35,000 but not exceeding \$40,000--	\$2,625.
Over \$40,000 but not exceeding \$75,000--	\$2,625 for the first \$40,000 plus \$350 for each additional \$5,000 or fraction thereof.
Over \$75,000 but not exceeding \$80,000--	\$5,225.
Over \$80,000-----	\$5,225 for the first \$80,000 plus \$300 for each additional \$5,000 or fraction thereof.”

SEC. 5. The second sentence of section 1677(b) of title 38, United States Code, is amended to read as follows: "Such allowance shall be paid monthly upon receipt of a certification from the eligible veteran and the institution as to the actual flight training received by, and the cost thereof to, the veteran during such month."

81 Stat. 185.

SEC. 6. (a) The amendments made by the first section and sections 2, 3, and 5 of this Act shall take effect on the first day of the second calendar month which begins after the date of the enactment of this Act.

Effective date.

Ante, p. 1331,
1333, 1335.

(b) The amendments made by section 4 of this Act shall apply with respect to contracts and agreements entered into under section 1774 of title 38, United States Code, effective for periods beginning after June 30, 1968.

Ante, p. 1334.

Approved October 23, 1968.

Public Law 90-632

AN ACT

October 24, 1968

To increase the participation of military judges and counsel on courts-martial, and for other purposes.

[H. R. 15971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Justice Act of 1968".

Military Justice
Act of 1968.

SEC. 2. Chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, is amended as follows:

70A Stat. 37.

(1) Section 801(10) (article 1(10)) is amended to read as follows:

"(10) 'Military judge' means an official of a general or special court-martial detailed in accordance with section 826 of this title (article 26)."

(2) Section 806(c) is amended by striking out "law officer" and inserting in lieu thereof "military judge".

(3) Section 816 (article 16) is amended to read as follows:

"§ 816. Art. 16. Courts-martial classified

"The three kinds of courts-martial in each of the armed forces are—

"(1) general courts-martial, consisting of—

"(A) a military judge and not less than five members; or

"(B) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves;

"(2) special courts-martial, consisting of—

"(A) not less than three members; or

"(B) a military judge and not less than three members; or

"(C) only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in clause (1)(B) so requests; and

"(3) summary courts-martial, consisting of one commissioned officer."

(4) Section 818 (article 18) is amended by adding the following sentence at the end thereof: "However, a general court-martial of the kind specified in section 816(1)(B) of this title (article 16(1)(B)) shall not have jurisdiction to try any person for any offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case."

(5) Section 819 (article 19) is amended by striking out the last sentence and inserting the following sentence in place thereof: "A bad-