

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §913(c), Sept. 24, 1983, 97 Stat. 640, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1036 of this title] shall apply to travel performed by escorts or attendants of dependents on or after the date of the enactment of this Act [Sept. 24, 1983]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 1041. Replacement of certificate of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from an armed force or that it was destroyed without his procurement or connivance, the Secretary concerned may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this section may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

(Added Pub. L. 90-235, §7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762, §1040; renumbered §1041, Pub. L. 96-513, title V, §511(33)(A), Dec. 12, 1980, 94 Stat. 2922.)

§ 1042. Copy of certificate of service

A fee for a copy of a certificate showing service in the armed forces may not be charged to—

- (1) a person discharged or released from the armed forces honorably or under honorable conditions;
- (2) the next of kin of the person; or
- (3) a legal representative of the person.

(Added Pub. L. 97-258, §2(b)(2)(B), Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1042	31:483b.	June 19, 1956, ch. 409, 70 Stat. 297.

The words "armed forces" are substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard" because of 10:101(4). The words "honorably or" are added for consistency with 10:1040.

§ 1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service

Active commissioned service in the National Oceanic and Atmospheric Administration or the Public Health Service shall be credited as active commissioned service in the armed forces for purposes of determining the retirement eligibility and computing the retired pay of a member of the armed forces.

(Added Pub. L. 98-94, title X, §1007(b)(1), Sept. 24, 1983, 97 Stat. 662.)

§ 1044. Legal assistance

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide

legal assistance in connection with their personal civil legal affairs to the following persons:

- (1) Members of the armed forces who are on active duty.
- (2) Members and former members entitled to retired or retainer pay or equivalent pay.
- (3) Officers of the commissioned corps of the Public Health Service or the commissioned officer corps of the National Oceanic and Atmospheric Administration who are on active duty or entitled to retired or equivalent pay.
- (4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).

(6) Survivors of a deceased member or former member described in paragraphs (1), (2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps, is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State and, for purposes of service as a Special Victims' Counsel under section 1044e of this title, satisfies the additional qualifications and training requirements specified in subsection (d) of such section.

(3) In this subsection, the term “military legal assistance” includes—

(A) legal assistance provided under this section; and

(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, 1044d, 1044e, 1565b(a)(1)(A), and 2894(b)(4) of this title.

(e) The Secretary concerned shall define “dependent” for the purposes of this section.

(Added Pub. L. 98–525, title VI, § 651(a), Oct. 19, 1984, 98 Stat. 2549; amended Pub. L. 104–201, div. A, title V, § 583, Sept. 23, 1996, 110 Stat. 2538; Pub. L. 106–398, § 1 [[div. A], title V, § 524(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–108; Pub. L. 109–163, div. A, title V, § 555, Jan. 6, 2006, 119 Stat. 3265; Pub. L. 110–181, div. A, title V, § 541, Jan. 28, 2008, 122 Stat. 114; Pub. L. 111–84, div. A, title V, § 513, Oct. 28, 2009, 123 Stat. 2282; Pub. L. 112–239, div. A, title V, § 531(d)(2), Jan. 2, 2013, 126 Stat. 1726; Pub. L. 113–66, div. A, title XVII, § 1716(a)(3)(A), (B), Dec. 26, 2013, 127 Stat. 969; Pub. L. 113–291, div. A, title X, § 1071(f)(12), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114–92, div. A, title V, § 535(c), Nov. 25, 2015, 129 Stat. 816; Pub. L. 116–92, div. B, title XXX, § 3022(b), Dec. 20, 2019, 133 Stat. 1934; Pub. L. 117–263, div. K, title CXVII, § 11707, Dec. 23, 2022, 136 Stat. 4158.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a)(3). Pub. L. 117–263 inserted “or the commissioned officer corps of the National Oceanic and Atmospheric Administration” after “Public Health Service”.

2019—Subsec. (d)(3)(B). Pub. L. 116–92 substituted “1565b(a)(1)(A), and 2894(b)(4)” for “and 1565b(a)(1)(A)”.

2015—Subsec. (d)(2). Pub. L. 114–92 substituted “satisfies the additional qualifications and training requirements specified in subsection (d)” for “meets the additional qualifications specified in subsection (d)(2)”.

2014—Subsec. (d)(2). Pub. L. 113–291 substituted “such section.” for “such section..”.

2013—Subsec. (b). Pub. L. 112–239 inserted “, and within the Marine Corps the Staff Judge Advocate to the Commandant of the Marine Corps.” after “jurisdiction of the Secretary”.

Subsec. (d)(2). Pub. L. 113–66, § 1716(a)(3)(A), inserted before period at end “and, for purposes of service as a Special Victims’ Counsel under section 1044e of this title, meets the additional qualifications specified in subsection (d)(2) of such section.”

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.