

1562 of Title 38, Veterans' Benefits, and repealing sections 1560 and 1561 of Title 38] shall apply with respect to Medals of Honor awarded on or after the date of the enactment of this Act [Dec. 26, 2013]."

### § 1135. Replacement of military decorations

(a) **REPLACEMENT.**—In addition to other authorities available to the Secretary concerned to replace a military decoration, the Secretary concerned shall replace, on a one-time basis and without charge, a military decoration upon the request of the recipient of the military decoration or the immediate next of kin of a deceased recipient.

(b) **PROMPT REPLACEMENT REQUIRED.**—When a request for the replacement of a military decoration is received under this section or section 7277, 7281, 8303, 9277, or 9281 of this title, the Secretary concerned shall ensure that—

(1) all actions to be taken with respect to the request, including verification of the service record of the recipient of the military decoration, are completed within one year; and

(2) the replacement military decoration is mailed to the person requesting the replacement military decoration within 90 days after verification of the service record.

(c) **MILITARY DECORATION DEFINED.**—In this section, the term "decoration" means any decoration or award (other than the medal of honor) that may be presented or awarded by the President or the Secretary concerned to a member of the armed forces.

(Added Pub. L. 110-417, [div. A], title V, § 571(a), Oct. 14, 2008, 122 Stat. 4471; amended Pub. L. 113-66, div. A, title V, § 564, Dec. 26, 2013, 127 Stat. 768; Pub. L. 115-232, div. A, title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1840.)

#### Editorial Notes

##### AMENDMENTS

2018—Subsec. (b). Pub. L. 115-232 substituted "section 7277, 7281, 8303, 9277, or 9281" for "section 3747, 3751, 6253, 8747, or 8751" in introductory provisions.

2013—Subsecs. (b), (c). Pub. L. 113-66 added subsec. (b) and redesignated former subsec. (b) as (c).

#### 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.

### § 1136. Honorable service requirement for award of military decorations

No military decoration, including a medal, cross, or bar, or an associated emblem or insignia, may be awarded or presented to any person, or to a representative of the person, if the service of the person after the person distinguished himself or herself has not been honorable.

(Added Pub. L. 116-92, div. A, title V, § 582(a)(1), Dec. 20, 2019, 133 Stat. 1411.)

## CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

Sec.

1141. Involuntary separation defined.

1142. Preseparation counseling; transmittal of certain records to Department of Veterans Affairs.

1143. Employment assistance.

[1143a. Repealed.]

1144. Employment assistance, job training assistance, and other transitional services: Department of Labor.

1145. Health benefits.

1146. Commissary and exchange benefits.

1147. Use of military family housing.

1148. Relocation assistance for personnel overseas.

1149. Excess leave and permissive temporary duty.

1150. Affiliation with Guard and Reserve units: waiver of certain limitations.

1151. Retention of assistive technology and services provided before separation.

1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.

1153. Assistance to separated members to obtain employment with health care providers.

1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program.

1155. Statement of benefits.

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 116-283, div. A, title X, § 1081(a)(26), Jan. 1, 2021, 134 Stat. 3872, added item 1142 and struck out former item 1142 "Preseparation counseling; transmittal of medical records to Department of Veterans Affairs".

2018—Pub. L. 115-232, div. A, title V, § 522(b), 553(a)(2), Aug. 13, 2018, 132 Stat. 1756, 1772, added item 1155 and struck out item 1143a "Employment assistance".

2013—Pub. L. 112-239, div. A, title V, § 541(b)(2), Jan. 2, 2013, 126 Stat. 1735, added item 1154.

2006—Pub. L. 109-364, div. A, title V, § 561(b), Oct. 17, 2006, 120 Stat. 2220, added item 1151.

1999—Pub. L. 106-65, div. A, title XVII, § 1707(a)(2), Oct. 5, 1999, 113 Stat. 823, struck out item 1151 "Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides".

1994—Pub. L. 103-337, div. A, title V, § 542(a)(10), title XI, § 1132(a)(2), Oct. 5, 1994, 108 Stat. 2768, 2873, struck out "Department of Defense" after "assistance" in item 1143 and after "service" in item 1143a and substituted "eligible members and former members" for "separated members" in item 1152.

1993—Pub. L. 103-160, div. A, title XIII, § 1332(e), Nov. 30, 1993, 107 Stat. 1797, added items 1152 and 1153.

1992—Pub. L. 102-484, div. D, title XLIV, §§ 4441(a)(2), 4462(a)(2), Oct. 23, 1992, 106 Stat. 2730, 2740, added items 1143a and 1151.

### § 1141. Involuntary separation defined

A member of the armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and—

(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse

conditions, as characterized by the Secretary concerned;

(2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;

(3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; and

(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned.

(Added Pub. L. 101-510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1551; amended Pub. L. 103-160, div. A, title V, §503, Nov. 30, 1993, 107 Stat. 1644; Pub. L. 103-337, div. A, title V, §542(a)(1), Oct. 5, 1994, 108 Stat. 2767.)

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-337, in introductory provisions, substituted “armed forces” for “Army, Navy, Air Force, or Marine Corps” and “or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994,” for “or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994”.

1993—Pub. L. 103-160 inserted “or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994” after “September 30, 1990.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title V, §542(e), Oct. 5, 1994, 108 Stat. 2769, provided that: “This section [amending this section and sections 1143, 1143a, 1145 to 1150, 1174a, and 1175 of this title and enacting provisions set out as a note under section 1293 of this title] and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994.”

##### 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.

#### § 1142. Preseparation counseling; transmittal of certain records to Department of Veterans Affairs

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge (regardless of character of discharge) or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned shall use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence not later than 365 days before the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 365 days before the date of retirement or other separation.

(B) In the event that a retirement or other separation is unanticipated until there are 365 or fewer days before the anticipated retirement or separation date, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 365-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of the first 180 continuous days of active duty of the member.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(C) For purposes of calculating the days of active duty of a member under subparagraph (A), the Secretary concerned shall exclude any day on which—

(i) the member performed full-time training duty or annual training duty; and

(ii) the member attended, while in the active military service, a school designated as a service school by law or by the Secretary concerned.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.