

“(c) NONDELEGATION OF APPROVAL.—The Secretary of Defense may not delegate the approval of cancellations of deployments of units under subsection (a) or the approval of mobilization of Reserves without advance notice under subsection (b).”

ADVANCE NOTICE TO MEMBERS OF RESERVE COMPONENTS OF DEPLOYMENT IN SUPPORT OF CONTINGENCY OPERATIONS

Pub. L. 110–181, div. A, title V, §515, Jan. 28, 2008, 122 Stat. 99, provided that:

“(a) **ADVANCE NOTICE REQUIRED.**—The Secretary of a military department shall ensure that a member of a reserve component under the jurisdiction of that Secretary who will be called or ordered to active duty for a period of more than 30 days in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) receives notice in advance of the mobilization date. In so far as is practicable, the notice shall be provided not less than 30 days before the mobilization date, but with a goal of 90 days before the mobilization date.

“(b) **REDUCTION OR WAIVER OF NOTICE REQUIREMENT.**—The Secretary of Defense may waive the requirement of subsection (a), or authorize shorter notice than the minimum specified in such subsection, during a war or national emergency declared by the President or Congress or to meet mission requirements. If the waiver or reduction is made on account of mission requirements, the Secretary shall submit to Congress a report detailing the reasons for the waiver or reduction and the mission requirements at issue.”

§ 12302. Ready Reserve

(a) In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty for not more than 24 consecutive months.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to—

- (1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;
- (2) family responsibilities; and
- (3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection.

(c) Not more than 1,000,000 members of the Ready Reserve may be on active duty, without their consent, under this section at any one time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 28, §673; Pub. L. 85–861, §§1(14), 33(a)(5), Sept. 2, 1958, 72 Stat. 1441, 1564; Pub. L. 93–155, title III, §303(a), Nov. 16, 1973, 87 Stat. 607; renumbered §12302, Pub. L. 103–337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992; Pub. L. 104–106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1031(a)(61), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 108–375, div. A, title V, §514(b), Oct. 28, 2004, 118

Stat. 1883; Pub. L. 112–81, div. A, title X, §1061(28), (30), Dec. 31, 2011, 125 Stat. 1584.)

**HISTORICAL AND REVISION NOTES
1956 ACT**

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
673(a)	50:961(b)(1).	July 9, 1952, ch. 608,
673(b)	50:961(b)(2).	§ 233(b), 66 Stat. 489.

In subsection (a), the words “after January 1, 1953” are substituted for the word “hereafter”, to reflect the effective date of the source statute. The words “without the consent of the persons concerned” are substituted for the word “involuntarily”.

The words “under the jurisdiction of that Secretary” are inserted for clarity. The last sentence of the revised subsection is substituted for 50:961(b)(1) (proviso). The words “and the members thereof” and “and required to perform” are omitted as surplusage.

In subsection (b), the words “to achieve” are substituted for the words “in the interest of”. The words “without their consent” are substituted for the word “involuntarily”. The words “who are being considered for” are inserted for clarity. The words “prescribe such policies and procedures” are substituted for the words “promulgate such policies and establish such procedures”. The words “as he considers necessary” are substituted for the words “as may be required in his opinion”. The words “this subsection” are substituted for the words “our intent here declared”. The words “at least once a year” are substituted for the words “from time to time, and at least annually”. The words “Senate and the House of Representatives” are substituted for the word “Congress”. 50:961(b)(2) (1st 18 words) is omitted as surplusage. The words “with the objective” and “found to be” are omitted as surplusage.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
673(a)	50:961(b)(1) (less proviso).	Aug. 9, 1955, ch. 665, §2(f),
673(c)	50:961(b)(1) (proviso)	69 Stat. 599.

In subsection (c), the words “on active duty (other than for training)” are substituted for the words “may be required to perform active duty” for clarity. The words “without their consent” are substituted for the word “involuntarily”. The words “of all reserve components” and “unless the Congress shall have authorized the exercise of the authority contained in this subsection” are omitted as surplusage.

The changes are necessary to reflect section 101(b) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 901(b)), which defines the term “active duty” to exclude active duty for training. This definition applied to the source law for these sections [sections 672 and 673], section 233(a), (b)(1), and (c) of the Armed Forces Reserve Act of 1952 (50 U.S.C. 961(a), (b)(1), (c)).

Editorial Notes

AMENDMENTS

2011—Subsec. (b). Pub. L. 112–81, in concluding provisions, struck out at end “He shall report on those policies and procedures at least once a year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.”

2004—Subsecs. (a), (c). Pub. L. 108–375 struck out “(other than for training)” after “active duty”.

2003—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which read as follows: “Whenever one or more units of the Ready Reserve are ordered to active duty, the President shall, on the first day of the second fiscal year quarter immediately following the quarter in which the first unit or units are ordered to active duty and on the first day of each succeeding six-month pe-

riod thereafter, so long as such unit is retained on active duty, submit a report to the Congress regarding the necessity for such unit or units being ordered to and retained on active duty. The President shall include in each such report a statement of the mission of each such unit ordered to active duty, an evaluation of such unit's performance of that mission, where each such unit is being deployed at the time of the report, and such other information regarding each unit as the President deems appropriate."

1999—Subsec. (b). Pub. L. 106-65 substituted "and the Committee on Armed Services" for "and the Committee on National Security" in concluding provisions.

1996—Subsec. (b). Pub. L. 104-106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

1994—Pub. L. 103-337 renumbered section 673 of this title as this section.

1973—Subsec. (d). Pub. L. 93-155 added subsec. (d).

1958—Subsec. (a). Pub. L. 85-861, §§1(14)(A), 33(a)(5), inserted "(other than for training)" after "active duty", and struck out provisions that made subsection inapplicable unless Congress determined how many members of the reserve components were necessary, in the interest of national security, to be ordered to active duty.

Subsec. (c). Pub. L. 85-861, §1(14)(B), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-155, title III, §303(b), Nov. 16, 1973, 87 Stat. 608, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective with respect to any unit of the Ready Reserve ordered to active duty on or after the date of enactment of this Act [Nov. 16, 1973]."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(a)(5) of Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

Executive Documents

EXECUTIVE ORDER NO. 12743

Ex. Ord. No. 12743, Jan. 18, 1991, 56 F.R. 2661, as amended by Ex. Ord. No. 13286, §35, Feb. 28, 2003, 68 F.R. 10625, which related to ordering the Ready Reserve of the Armed Forces to active duty, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, listed in a table under section 1701 of Title 50, War and National Defense.

EX. ORD. NO. 13223. ORDERING THE READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY AND DELEGATING CERTAIN AUTHORITIES TO THE SECRETARY OF DEFENSE AND THE SECRETARY OF HOMELAND SECURITY

Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended by Ex. Ord. No. 13253, Jan. 16, 2002, 67 F.R. 2791; Ex. Ord. No. 13286, §9, Feb. 28, 2003, 68 F.R. 10622; Ex. Ord. No. 13814, Oct. 20, 2017, 82 F.R. 49273, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3, United States Code, and in furtherance of the proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks [Proc. No. 7463, 50 U.S.C. 1621 note], which declared a national emergency by reason of the terrorist attacks on the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States, I hereby order as follows:

SECTION 1. To provide additional authority to the Department of Defense and the Department of Transpor-

tation [Homeland Security] to respond to the continuing and immediate threat of further attacks on the United States, the authority under title 10, United States Code, to order any unit, and any member of the Ready Reserve not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term "Secretary concerned" is defined in section 101(a)(9) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air Force with respect to the Air Force; and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy. The authorities available for use during a national emergency under sections 688 and 690 of title 10, United States Code, are also invoked and made available, according to their terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense.

SEC. 2. To allow for the orderly administration of personnel within the armed forces, the following authorities vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.

SEC. 3. To allow for the orderly administration of personnel within the armed forces, the authorities vested in the President by sections 331, 359, and 367 [now 2127, 2308, and 2314] of title 14, United States Code, relating to the authority to order to active duty certain officers and enlisted members of the Coast Guard and to detain enlisted members, are invoked to the full extent provided by the terms thereof.

SEC. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 123, 123a, 527, and 12006 of title 10, United States Code, as invoked by sections 2 and 3 of this order.

SEC. 5. The Secretary of Homeland Security is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in sections 331, 359, and 367 [now 2127, 2308, and 2314] of title 14, United States Code, when the Coast Guard is not serving as part of the Navy, as invoked by section 2 of this order, to recall any regular officer or enlisted member on the retired list to active duty and to detain any enlisted member beyond the term of his or her enlistment. The Secretary of Homeland Security is further designated and empowered, without the approval, ratification or any other action by the President, to exercise the authority vested in the President by sections 123 and 123a of title 10, United States Code, and sections 149 [now 710] (detail members to assist foreign governments), 275(a) [now 2125(a)] (suspension of provisions on selection, promotion, or involuntary separation of officers), and 722 [now 3733] (administration of reserve forces) of title 14, United States Code, as invoked by section 2 of Executive Order 13223.

SEC. 6. The authority delegated by this order to the Secretary of Defense and the Secretary of Homeland Security may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

SEC. 7. Based upon my determination under 10 U.S.C. 2201(c) that it is necessary to increase (subject to limits

imposed by law) the number of members of the armed forces on active duty for the Department of Defense beyond the number for which funds are provided in the appropriation Act for the Department of Defense, which, by virtue of 14 U.S.C. 652 [now 14 U.S.C. 104], applies to the Department of Homeland Security with respect to the Coast Guard, the Secretary of Defense and the Secretary of Homeland Security may provide for the cost of such additional members under their respective jurisdictions as an excepted expense under [former] section 11(a) of title 41, United States Code [see 41 U.S.C. 6301(a), (b)].

SEC. 8. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 9. This order is effective immediately and shall be promptly transmitted to the Congress and published in the Federal Register.

EX. ORD. NO. 13912. NATIONAL EMERGENCY AUTHORITY TO ORDER THE SELECTED RESERVE AND CERTAIN MEMBERS OF THE INDIVIDUAL READY RESERVE OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13912, Mar. 27, 2020, 85 F.R. 18407, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 et seq.), and in furtherance of Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak) [50 U.S.C. 1621 note], which declared a national emergency by reason of the threat that the novel (new) coronavirus known as SARS-CoV-2 poses to our Nation's healthcare systems, I hereby order as follows:

SECTION 1. *Emergency Authority.* To provide additional authority to the Secretaries of Defense and Homeland Security to respond to the national emergency declared by Proclamation 9994, the authorities under section 12302 of title 10, United States Code, and sections 2127, 2308, 2314, and 3735 of title 14, United States Code, are invoked and made available, according to their terms, to the Secretaries of Defense and Homeland Security. The Secretaries of the Army, Navy, and Air Force, at the direction of the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, are authorized to order to active duty not to exceed 24 consecutive months, such units, and individual members of the Ready Reserve under the jurisdiction of the Secretary concerned, not to exceed 1,000,000 members on active duty at any one time, as the Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security consider necessary. The Secretary of Defense or the Secretary of Homeland Security, as applicable, will ensure appropriate consultation is undertaken with relevant state officials with respect to the utilization of National Guard Reserve Component units activated under this authority.

SEC. 2. *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.

§ 12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units

(a) Notwithstanding any other provision of law, the President may order to active duty any member of the Ready Reserve of an armed force who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) A member who is ordered to active duty under this section may be required to serve on active duty until his total service on active duty equals 24 months. If his enlistment or other period of military service would expire before he has served the required period under this section, it may be extended until he has served the required period.

(c) To achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this section, appropriate consideration shall be given to—

(1) family responsibilities; and

(2) employment necessary to maintain the national health, safety, or interest.

(Added Pub. L. 90-40, §6(1), June 30, 1967, 81 Stat. 105, §673a; renumbered §12303, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 673a of this title as this section.

Executive Documents

EX. ORD. NO. 11366. AUTHORIZATION TO ORDER READY RESERVE TO ACTIVE DUTY; EXTENSION OF MILITARY SERVICE

Ex. Ord. No. 11366, Aug. 4, 1967, 32 F.R. 11411, as amended by Ex. Ord. No. 13286, §64, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by section 673a [now 12303] of title 10 of the United States Code, and by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Defense is hereby authorized and empowered to exercise the authority vested in the President by section 673a [now 12303] of title 10 of the United States Code, to order to active duty any member of the Ready Reserve of an armed force (except the Coast Guard when not operating as a service in the Navy) who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) In pursuance of the provisions of section 673a [now 12303] of title 10 of the United States Code, the Secretary of Defense is hereby authorized to require a member ordered to active duty under the authority of this Order to serve on active duty until his total service on active duty equals 24 months. If the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under this authority would expire before he has served the required period of