

of the Selected Reserve for a period of two years beginning on the later of—

“(1) the date on which that person ceases to be a member of the Selected Reserve; or

“(2) the date of the enactment of this Act [Oct. 23, 1992].

“SEC. 4421. APPLICABILITY AND TERMINATION OF BENEFITS.

“(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 4418 through 4420 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

“(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a).

“(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 4418 through 4420 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

“(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 4418 through 4420 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

“SEC. 4422. READJUSTMENT BENEFITS FOR CERTAIN VOLUNTARILY SEPARATED MEMBERS OF THE RESERVE COMPONENTS.

“(a) SPECIAL SEPARATION BENEFITS.—[Amended section 1174a of this title.]

“(b) VOLUNTARY SEPARATION INCENTIVE.—[Amended section 1175 of this title.]”

[Section 518(c) of Pub. L. 103-337 provided that: “The amendments made by this section [amending section 4416 of Pub. L. 102-484, set out above] shall apply only to payments to a member of the Armed Forces under subsection (b) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484) that are granted by the Secretary of Defense to that member after the date of the enactment of this Act [Oct. 5, 1994].”]

**§ 12682. Reserves: discharge upon becoming ordained minister of religion**

Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2997.)

**Editorial Notes**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1162(b) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

**§ 12683. Reserve officers: limitation on involuntary separation**

(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

(2) by the approved sentence of a court-martial.

(b) Subsection (a) does not apply to any of the following:

(1) A separation under section 12684, 14901, or 14907 of this title.

(2) A dismissal under section 1161(a) of this title.

(3) A transfer under section 12213, 12214, 14514, or 14515 of this title.

(4) A separation of an officer who is in an inactive status in the Standby Reserve and who is not qualified for transfer to the Retired Reserve or is qualified for transfer to the Retired Reserve and does not apply for such a transfer.

(Added Pub. L. 103-337, div. A, title XVI, § 1662(i)(1), Oct. 5, 1994, 108 Stat. 2997; amended Pub. L. 105-85, div. A, title V, § 516, Nov. 18, 1997, 111 Stat. 1733; Pub. L. 105-261, div. A, title X, § 1069(a)(8), Oct. 17, 1998, 112 Stat. 2136.)

**Editorial Notes**

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 1163(a) of this title, prior to repeal by Pub. L. 103-337, § 1662(i)(2).

**AMENDMENTS**

1998—Subsec. (b)(2). Pub. L. 105-261 substituted a period for “; or” at end.

1997—Subsec. (b). Pub. L. 105-85, § 516(a)(1), substituted “apply to any of the following:” for “apply—” in introductory provisions.

Subsec. (b)(1). Pub. L. 105-85, § 516(b)(1), (2), substituted “A” for “to a” and “title.” for “title;”.

Subsec. (b)(2). Pub. L. 105-85, § 516(b)(3), which directed substitution of a period for “; and” at end of par. (2), could not be executed because “; and” did not appear in par. (2).

Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”.

Subsec. (b)(3). Pub. L. 105-85, § 516(b)(1), substituted “A” for “to a”.

Subsec. (b)(4). Pub. L. 105-85, § 516(a)(2), added par. (4).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

**§ 12684. Reserves: separation for absence without authority or sentence to imprisonment**

The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

(1) who has been absent without authority for at least three months;

(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial; or

(3) who is sentenced to confinement in a Federal or State penitentiary or correctional

institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Added Pub. L. 103-337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-106, div. A, title V, §563(b)(2), Feb. 10, 1996, 110 Stat. 325.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(b) of this title, prior to repeal by Pub. L. 103-337, §1662(i)(2).

##### AMENDMENTS

1996—Pub. L. 104-106 struck out “or” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12685. Reserves separated for cause: character of discharge

A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

(Added Pub. L. 103-337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(c) of this title, prior to repeal by Pub. L. 103-337, §1662(i)(2).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

(a) LIMITATION.—Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system

(other than the retirement system under chapter 1223 of this title), may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.

(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.

(Added Pub. L. 103-337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-201, div. A, title V, §533, Sept. 23, 1996, 110 Stat. 2520; Pub. L. 108-375, div. A, title V, §522, Oct. 28, 2004, 118 Stat. 1888.)

#### Editorial Notes

##### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(d) of this title, prior to repeal by Pub. L. 103-337, §1662(i)(2).

##### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 inserted “(other than the retirement system under chapter 1223 of this title)” after “retirement system”.

1996—Pub. L. 104-201 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

#### § 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve’s armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.

(Added Pub. L. 104-106, div. A, title V, §563(a)(2)(A), Feb. 10, 1996, 110 Stat. 325.)

#### CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

##### Sec.

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|---------|---|
| 12731.  | Age and service requirements.   |
| 12731a. | Temporary special retirement qualification authority.                             |
| 12731b. | Special rule for members with physical disabilities not incurred in line of duty. |
| 12732.  | Entitlement to retired pay: computation of years of service.                      |