

**§ 12740. Eligibility: denial upon certain punitive discharges or dismissals**

A person who—

(1) is convicted of an offense under the Uniform Code of Military Justice (chapter 47 of this title) and whose sentence includes death; or

(2) is separated pursuant to sentence of a court-martial with a dishonorable discharge, a bad conduct discharge, or (in the case of an officer) a dismissal,

is not eligible for retired pay under this chapter. (Added Pub. L. 104-106, div. A, title VI, § 632(a)(1), Feb. 10, 1996, 110 Stat. 365.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Pub. L. 104-106, div. A, title VI, § 632(b), Feb. 10, 1996, 110 Stat. 365, provided that: “Section 12740 of title 10, United States Code, as added by subsection (a), shall apply with respect to court-martial sentences adjudged after the date of the enactment of this Act [Feb. 10, 1996].”

**§ 12741. Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement**

(a) **AUTHORITY TO ELECT TO RECEIVE RESERVE RETIRED PAY.**—(1) Notwithstanding the requirement in paragraph (4) of section 12731(a) of this title that a person may not receive retired pay under this chapter when the person is entitled, under any other provision of law, to retired pay or retainer pay, a person may elect to receive retired pay under this chapter, instead of receiving retired or retainer pay under chapter 65, 741, 841, or 941 of this title, if the person—

(A) satisfies the requirements specified in paragraphs (1) and (2) of such section for entitlement to retired pay under this chapter;

(B) served in an active status in the Selected Reserve of the Ready Reserve after becoming eligible for retirement under chapter 65, 741, 841, or 941 of this title (without regard to whether the person actually retired or received retired or retainer pay under one of those chapters); and

(C) completed not less than two years of satisfactory service (as determined by the Secretary concerned) in such active status (excluding any period of active service).

(2) The Secretary concerned may reduce the minimum two-year service requirement specified in paragraph (1)(C) in the case of a person who—

(A) completed at least one year of service in a position of adjutant general required under section 314 of title 32 or in a position of assistant adjutant general subordinate to such a position of adjutant general; and

(B) failed to complete the minimum years of service solely because the appointment of the person to such position was terminated or vacated as described in section 324(b) of title 32.

(b) **ACTIONS TO EFFECTUATE ELECTION.**—As of the effective date of an election made by a person under subsection (a), the Secretary concerned shall—

(1) terminate the eligibility of the person to retire under chapter 65, 741, 841, or 941 of this title, if the person is not already retired under one of those chapters, and terminate entitlement of the person to retired or retainer pay under one of those chapters, if the person was already receiving retired or retainer pay under one of those chapters; and

(2) in the case of a reserve commissioned officer, transfer the officer to the Retired Reserve.

(c) **TIME AND FORM OF ELECTION.**—An election under subsection (a) shall be made within such time and in such form as the Secretary concerned requires.

(d) **EFFECTIVE DATE OF ELECTION.**—An election made by a person under subsection (a) shall be effective—

(1) except as provided in paragraph (2)(B), as of the date on which the person attains the eligibility age applicable to the person under section 12731(f) of this title, if the Secretary concerned receives the election in accordance with this section within 180 days after that date; or

(2) on the first day of the first month that begins after the date on which the Secretary concerned receives the election in accordance with this section, if—

(A) the date of the receipt of the election is more than 180 days after the date on which the person attains the eligibility age applicable to the person under such section; or

(B) the person retires from service in an active status within that 180-day period.

(Added Pub. L. 106-398, § 1 [[div. A], title VI, § 653(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-164; amended Pub. L. 107-107, div. A, title X, § 1048(a)(31), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 109-364, div. A, title X, § 1071(a)(41), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111-84, div. A, title VI, § 643(a)-(c), (e)(1), Oct. 28, 2009, 123 Stat. 2366, 2367; Pub. L. 115-232, div. A, title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1840.)

**Editorial Notes**

**AMENDMENTS**

2018—Subsec. (a)(1). Pub. L. 115-232 substituted “chapter 65, 741, 841, or 941” for “chapter 65, 367, 571, or 867” in introductory provisions and in subpar. (B).

Subsec. (b)(1). Pub. L. 115-232 substituted “chapter 65, 741, 841, or 941” for “chapter 65, 367, 571, or 867”.

2009—Pub. L. 111-84, § 643(e)(1), substituted “Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement” for “Retirement from active reserve service performed after regular retirement” in section catchline.

Subsec. (a). Pub. L. 111-84, § 643(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(a) **ELECTION OF RESERVE RETIRED PAY.**—A person who, after becoming entitled to retired or retainer pay under chapter 65, 367, 571, or 867 of this title, serves in an active status in a reserve component is entitled to retired pay under this chapter if—

“(1) the person would, but for paragraphs (3) and (4) of section 12731(a) of this title, otherwise be entitled to retired pay under this chapter;

“(2) the person elects under this section to receive retired pay under this chapter; and