

in an active status and their immediate family members," and inserted "or to support the resiliency, suicide prevention, or holistic wellness of such covered individual" after "structure".

Subsec. (b). Pub. L. 117-263, § 571(a)(2), substituted "a covered individual" for "members of the armed forces and their family members", "a program" for "programs", and "a retreat or conference" for "retreats and conferences".

Subsec. (c). Pub. L. 117-263, § 571(a)(3), added subsec. (c) and struck out former subsec. (c) which defined "immediate family members".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 108-136, div. A, title V, § 582(b), Nov. 24, 2003, 117 Stat. 1490, provided that: "Section 1789 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003."

§ 1790. Military personnel citizenship processing

Using funds provided for operation and maintenance and notwithstanding section 2215 of this title, the Secretary of Defense may reimburse the Secretary of Homeland Security for costs associated with the processing and adjudication by the United States Citizenship and Immigration Services (USCIS) of applications for naturalization described in sections 328(b)(4) and 329(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(4) and 1440(b)(4)). Such reimbursements shall be deposited and remain available as provided by subsections (m) and (n) of section 286 of such Act (8 U.S.C. 1356). Such reimbursements shall be based on actual costs incurred by USCIS for processing applications for naturalization, and shall not exceed \$7,500,000 per fiscal year.

(Added Pub. L. 112-74, div. A, title VIII, § 8070(a), Dec. 23, 2011, 125 Stat. 822; amended Pub. L. 112-239, div. A, title X, § 1076(f)(22), Jan. 2, 2013, 126 Stat. 1953.)

Editorial Notes

AMENDMENTS

2013—Pub. L. 112-239, in section catchline, substituted "Military personnel citizenship processing" for "MILITARY PERSONNEL CITIZENSHIP PROCESSING", and in text, struck out "AUTHORIZATION OF PAYMENTS—" before "Using funds" and substituted "this title" for "title 10, United States Code", "8 U.S.C. 1439(b)(4)" for "8 U.S.C. §§1439(b)(4)", and "subsections (m) and (n) of section 286 of such Act (8 U.S.C. 1356)" for "sections 286(m) and (n) of such Act (8 U.S.C. §1356(m))".

SUBCHAPTER II—MILITARY CHILD CARE

Sec.	
1791.	Funding for military child care.
1792.	Child care employees.
1793.	Parent fees.
1794.	Child abuse prevention and safety at facilities.
1795.	Parent partnerships with child development centers.
1796.	Subsidies for family home day care.
1797.	Early childhood education program.
1798.	Child care services and youth program services for dependents: financial assistance for providers.
1799.	Child care services and youth program services for dependents: participation by children and youth otherwise ineligible.

Sec.
1800. Definitions.

Editorial Notes

AMENDMENTS

1999—Pub. L. 106-65, div. A, title V, § 584(a)(2), Oct. 5, 1999, 113 Stat. 636, added items 1798, 1799, and 1800 and struck out former item 1798 "Definitions".

Statutory Notes and Related Subsidiaries

OUTREACH CAMPAIGN RELATING TO WAITING LISTS FOR MILITARY CHILD DEVELOPMENT CENTERS; ANNUAL BRIEFING

Pub. L. 118-31, div. A, title V, § 585, Dec. 22, 2023, 137 Stat. 281, as amended by Pub. L. 118-159, div. A, title V, §§ 585, 586, Dec. 23, 2024, 138 Stat. 1912, provided that:

"(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a campaign to conduct outreach, not less than once every six months, to inform individuals eligible for child care services under chapter 88 of title 10, United States Code, including child care employees—

"(1) how to—

"(A) join a waiting list for child care services at a military child development center; and

"(B) check the position of such an individual on such waiting list; and

"(2) of—

"(A) what factors affect positions on such waiting list;

"(B) the process to prioritize such individuals to receive child care services at a military child development center;

"(C) the fee schedule for child care services at a military child development center; and

"(D) options for child care services available to such individuals other than military child development centers, including a provider eligible for financial assistance under section 1798 of title 10, United States Code, or pilot programs at the duty station of such member, if applicable.

"(b) ANNUAL BRIEFING.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], and on an annual basis thereafter for five years, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the Committees on Armed Services of the House of Representatives and the Senate a briefing that includes, for each military department—

"(1) with regards to the 20 military installations with the longest waiting lists for child care services at military child development centers—

"(A) the number of children on each waiting list;

"(B) the available total capacity for child care services at each such military child development center, disaggregated by infants, pre-toddlers, toddlers, and pre-school children;

"(C) an accounting of the total unduplicated and unmet need for child care within each metropolitan region represented by a military installation described in subparagraph (A); and

"(D) the determination of the Secretary of Defense whether insufficient staffing or issues relating to maintenance contribute to the length of such waiting lists; and

"(2) an accounting of the efforts of the Secretary of Defense to mitigate child care shortages in order to shorten waiting lists and address unmet needs for child care across the Department of Defense.

"(c) DEFINITIONS.—In this section, the terms 'child care employee' and 'military child development center' have the meanings given such terms in section 1800 of title 10, United States Code."

§ 1791. Funding for military child care

(a) POLICY.—It is the policy of Congress that the amount of appropriated funds available dur-

ing a fiscal year for operating expenses for military child development centers and programs shall be not less than 115 percent of the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.

(b) RESPONSIBILITY FOR ALLOCATIONS OF CERTAIN FUNDS.—The Secretary of Defense shall be responsible for the allocation of Office of the Secretary of Defense level funds for military child development programs for children from birth through 12 years of age, and may not delegate such responsibility to the military departments.

(Added Pub. L. 104–106, div. A, title V, § 568(a)(1), Feb. 10, 1996, 110 Stat. 332; amended Pub. L. 116–283, div. A, title V, § 584, Jan. 1, 2021, 134 Stat. 3654; Pub. L. 118–31, div. A, title V, § 582, Dec. 22, 2023, 137 Stat. 280.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in Pub. L. 101–189, div. A, title XV, Nov. 29, 1989, 103 Stat. 1589, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 104–106, § 568(e)(2).

AMENDMENTS

2023—Subsec. (a). Pub. L. 118–31 inserted “115 percent of” after “not less than”.

2021—Pub. L. 116–283 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

CHILD CARE SERVICES AND YOUTH PROGRAM SERVICES FOR DEPENDENTS: PERIOD OF SERVICES FOR A MEMBER WITH A SPOUSE SEEKING EMPLOYMENT

Pub. L. 118–159, div. A, title V, § 589, Dec. 23, 2024, 138 Stat. 1914, provided that:

“(a) PERIOD.—The Secretary of a military department may provide a covered member with covered services for a period of at least 180 days.

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) entitle a covered member to covered services; or

“(2) give priority to a covered member for purposes of a determination regarding who shall receive covered services.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘covered member’ means a member of the Armed Forces—

“(A) who has a dependent child; and

“(B) whose spouse is seeking employment.

“(2) The term ‘covered services’ means child care services or youth program services provided or paid for by the Secretary of Defense under subchapter II of chapter 88 of title 10, United States Code.”

PUBLIC REPORTING ON CERTAIN MILITARY CHILD CARE PROGRAMS

Pub. L. 117–263, div. A, title V, § 579C, Dec. 23, 2022, 136 Stat. 2608, provided that: “Not later than September 30, 2023, and each calendar quarter thereafter, the Secretary of Defense shall post, on a publicly accessible website of the Department of Defense, information regarding the Military Child Care in Your Neighborhood and Military Child Care in Your Neighborhood-Plus programs, disaggregated by State, ZIP code, and Armed Force. Such information shall include whether each

such provider is nationally accredited or rated by the Quality Rating and Improvement System of the State.”

AUTHORITY FOR DEPARTMENT OF DEFENSE PROGRAM TO PROMOTE EARLY LITERACY AMONG CERTAIN YOUNG CHILDREN

Pub. L. 117–263, div. A, title VII, § 722, Dec. 23, 2022, 136 Stat. 2663, provided that:

“(a) AUTHORITY.—The Secretary of Defense may carry out a program to promote early literacy among young children in child development centers and libraries located on installations of the Department of Defense.

“(b) ACTIVITIES.—Activities under the program under subsection (a) shall include the following:

“(1) The provision of training on early literacy promotion to appropriate personnel of the Department.

“(2) The purchase and distribution of age-appropriate books to covered caregivers assigned to or serving at an installation of the Department with a child development center or library at which the Secretary is carrying out the program.

“(3) The dissemination to covered caregivers of education materials on early literacy.

“(4) Such other activities as the Secretary determines appropriate.

“(c) LOCATIONS.—In carrying out the program under subsection (a), the Secretary may conduct the activities under subsection (b) at any child development center or library located on an installation of the Department.

“(d) BRIEFING.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the extent to which the authority under subsection (a) is used, including—

“(1) a description of any activities carried out under the program so authorized; and

“(2) an evaluation of the potential expansion of such program to be included as a part of the pediatric primary care of young children and to be carried out in military medical treatment facilities.

“(b) [sic] DEFINITIONS.—In this section:

“(1) The term ‘covered caregiver’ means a member of the Armed Forces who is a caregiver of a young child.

“(2) The term ‘young child’ means any child from birth to the age of five years old, inclusive.”

IMPROVEMENT OF DEPARTMENT OF DEFENSE CHILD DEVELOPMENT CENTERS AND INCREASED AVAILABILITY OF CHILD CARE FOR CHILDREN OF MILITARY PERSONNEL

Pub. L. 117–81, div. B, title XXVIII, § 2816, Dec. 27, 2021, 135 Stat. 2194, provided that:

“(a) SAFETY INSPECTION OF CHILD DEVELOPMENT CENTERS.—Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall complete an inspection of all facilities under the jurisdiction of that Secretary used as a child development center to identify any unresolved safety issues, including lead, asbestos, and mold, that adversely impact the facilities.

“(b) BRIEFING ON RESULTS OF SAFETY INSPECTIONS AND REMEDIATION PLANS.—

“(1) BRIEFING REQUIRED.—Not later than March 1, 2022, each Secretary of a military department shall brief the Committees on Armed Services of the Senate and the House of Representatives regarding the results of the safety inspections conducted of child development centers under the jurisdiction of that Secretary.

“(2) REQUIRED ELEMENTS OF BRIEFING.—In the briefing required by paragraph (1), the Secretary of a military department shall provide the following:

“(A) A list of any child development centers under the jurisdiction of that Secretary considered to be in poor or failing condition. In the case of each child development center included on this list,

the Secretary shall provide a remediation plan for the child development center, which shall include the following elements:

“(i) An estimate of the funding required to complete the remediation plan.

“(ii) The Secretary’s funding strategy to complete the remediation plan.

“(iii) Any additional statutory authorities the Secretary needs to complete the remediation plan.

“(B) A list of life-threatening and non-life-threatening violations during the previous three years recorded at child development centers under the jurisdiction of that Secretary that are not included on the list required by subparagraph (A), which shall include the name of the installation where the violation occurred and date of inspection.

“(C) A list of what that Secretary considers a life-threatening and non-life-threatening violation, including with regard to the presence of lead, asbestos, and mold.

“(D) A list of how often the 90-day remediation requirement has been waived and the name of each child development center under the jurisdiction of that Secretary at which a waiver was granted.

“(E) Data on child development center closures under the jurisdiction of that Secretary due to a non-life-threatening violation not remedied within 90 days.

“(F) An additional plan to conduct preventive maintenance on other child development centers under the jurisdiction of that Secretary to prevent additional child development centers from degrading to poor or failing condition.

“(c) PARTNERSHIPS ENCOURAGED FOR CHILD CARE FOR CHILDREN OF MILITARY PERSONNEL.—Beginning one year after the date of the enactment of this Act, and pursuant to such regulations as the Secretary of Defense may prescribe, each Secretary of a military department is encouraged to enter into agreements with public and private entities to provide child care to the children of personnel (including members of the Armed Forces and civilian employees of the Department of Defense) under the jurisdiction of that Secretary.

“(d) ANNUAL STATUS UPDATES.—Not later than 18 months after the date of the enactment of this Act, and every 12 months thereafter, each Secretary of a military department shall brief the Committees on Armed Services of the Senate and the House of Representatives on the progress made by that Secretary—

“(1) in implementing the child development center remediation plans required by subsection (b)(2)(A) for child development centers under the jurisdiction of that Secretary considered to be in ‘poor’ or ‘failing’ condition, including details about projects planned, funded, under construction, and completed under the plans;

“(2) in conducting preventive maintenance on other child development centers under the jurisdiction of that Secretary pursuant to the preventive maintenance plan required by subsection (b)(2)(F); and

“(3) in entering into partnerships encouraged by subsection (c), including with regard to each partnership—

“(A) the terms of the agreement, including cost to the United States;

“(B) the number of children described in such subparagraph projected to receive child care under the partnership; and

“(C) if applicable, the actual number of such children who received child care under the partnership during the previous year.

“(e) CHILD DEVELOPMENT CENTER DEFINED.—In this section, the term ‘child development center’ has the meaning given that term in section 2871(2) of title 10, United States Code, and includes facilities identified as a child care center or day care center.”

24-HOUR CHILD CARE

Pub. L. 116-283, div. A, title V, § 588, Jan. 1, 2021, 134 Stat. 3656, provided that:

“(a) 24-HOUR CHILD CARE.—If the Secretary of Defense determines it feasible, pursuant to the study conducted pursuant to subsection (b), the Secretary shall furnish child care to each child of a member of the Armed Forces or civilian employee of the Department of Defense while that member or employee works on rotating shifts at a military installation.

“(b) FEASIBILITY STUDY; REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of a study, conducted by the Secretary for purposes of this section, on the feasibility of furnishing child care described in subsection (a).

“(c) ELEMENTS.—The report required by subsection (b) shall include the following:

“(1) The results of the study described in that subsection.

“(2) If the Secretary determines that furnishing child care available as described in subsection (a) is feasible, such matters as the Secretary determines appropriate in connection with furnishing such child care, including—

“(A) an identification of the installations at which such child care would be beneficial to members of the Armed Forces, civilian employees of the Department, or both;

“(B) an identification of any barriers to making such child care available at the installations identified pursuant to subparagraph (A);

“(C) an assessment whether the child care needs of members of the Armed Forces and civilian employees of the Department described in subsection (a) would be better met by an increase in assistance for child care fees;

“(D) a description and assessment of the actions, if any, being taken to furnish such child care at the installations identified pursuant to subparagraph (A); and

“(E) such recommendations for legislative or administrative action the Secretary determines appropriate to make such child care available at the installations identified pursuant to subparagraph (A), or at any other military installation.”

PILOT PROGRAM TO PROVIDE FINANCIAL ASSISTANCE TO MEMBERS OF THE ARMED FORCES FOR IN-HOME CHILD CARE

Pub. L. 116-283, div. A, title V, § 589, Jan. 1, 2021, 134 Stat. 3657, as amended by Pub. L. 117-81, div. A, title VI, § 624, Dec. 27, 2021, 135 Stat. 1772, provided that:

“(a) ESTABLISHMENT.—Not later than March 1, 2021, the Secretary of Defense shall establish a pilot program to provide financial assistance to members of the Armed Forces who pay for services provided by in-home child care providers. In carrying out the pilot program, the Secretary shall take the following steps:

“(1) Determine the needs of military families who request services provided by in-home child care providers.

“(2) Determine the appropriate amount of financial assistance to provide to military families described in paragraph (1).

“(3) Determine the appropriate qualifications for an in-home child care provider for whose services the Secretary shall provide financial assistance to a military family. In carrying out this paragraph, the Secretary shall—

“(A) take into consideration qualifications for in-home child care providers in the private sector; and

“(B) ensure that the qualifications the Secretary determines appropriate under this paragraph are comparable to the qualifications for a provider of child care services in a military child development center or family home day care.

“(4) Establish a marketing and communications plan to inform members of the Armed Forces who live in the locations described in subsection (b) about the pilot program.

“(b) LOCATIONS.—

“(1) The Secretary shall carry out the pilot program in the five locations that the Secretary determines have the greatest demand for child care services for children of members of the Armed Forces.

“(2) The Secretary may carry out the pilot program at other locations the Secretary determines appropriate.

“(c) REPORTS.—

“(1) INTERIM REPORTS.—Not later than one year after the Secretary establishes the pilot program and thrice annually thereafter, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on the pilot program. Each interim report shall include the following elements:

“(A) The number of military families participating in the pilot program, disaggregated by location and duration of participation.

“(B) The amount of financial assistance provided to participating military families in each location.

“(C) Metrics by which the Secretary carries out subsection (a)(3)(B);

“(D) The feasibility of expanding the pilot program.

“(E) Legislation or administrative action that the Secretary determines necessary to make the pilot program permanent.

“(F) Any other information the Secretary determines appropriate.

“(2) FINAL REPORT.—Not later than 90 days after the termination of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a final report on the pilot program. The final report shall include the following elements:

“(A) The elements specified in paragraph (1).

“(B) The recommendation of the Secretary whether to make the pilot program permanent.

“(d) TERMINATION.—The pilot program shall terminate five years after the date on which the Secretary establishes the pilot program.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘in-home child care provider’ means an individual who provides child care services in the home of the child.

“(2) The terms ‘military child development center’ and ‘family home day care’ have the meanings given those terms in section 1800 of title 10, United States Code.”

REDUCTION IN WAIT LISTS FOR CHILD CARE AT MILITARY INSTALLATIONS

Pub. L. 116-92, div. A, title V, §580(c), Dec. 20, 2019, 133 Stat. 1407, provided that:

“(1) REMEDIAL ACTION.—The Secretary of Defense shall take steps the Secretary determines necessary to reduce the waiting lists for child care at military installations to ensure that members of the Armed Forces have meaningful access to child care during tours of duty.

“(2) REPORT.—Not later than June 1, 2020, the Secretary of Defense shall provide a report to the Committees on Armed Forces of the Senate and the House of Representative regarding—

“(A) action taken under paragraph (1); and

“(B) any additional resources (including additional funding for and child care facilities and workers) the Secretary determines necessary to increase access described in paragraph (1).”

ENHANCING MILITARY CHILDCARE PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF DEFENSE

Pub. L. 115-91, div. A, title V, §558, Dec. 12, 2017, 131 Stat. 1405, provided that:

“(a) HOURS OF OPERATION OF MILITARY CHILDCARE DEVELOPMENT CENTERS.—Each Secretary of a military department shall ensure, to the extent practicable, that the hours of operation of each childcare development

center under the jurisdiction of the Secretary are established and maintained in manner that takes into account the demands and circumstances of members of the Armed Forces, including members of the reserve components, who use such center in facilitation of the performance of their military duties.

“(b) MATTERS TO BE TAKEN INTO ACCOUNT.—The demands and circumstances to be taken into account under subsection (a) for purposes of setting and maintaining the hours of operation of a childcare development center shall include the following:

“(1) Mission requirements of units whose members use the childcare development center.

“(2) The unpredictability of work schedules, and fluctuations in day-to-day work hours, of such members.

“(3) The potential for frequent and prolonged absences of such members for training, operations, and deployments.

“(4) The location of the childcare development center on the military installation concerned, including the location in connection with duty locations of members and applicable military family housing.

“(5) Such other matters as the Secretary of the military department concerned considers appropriate for purposes of this section.

“(c) CHILDCARE COORDINATORS FOR MILITARY INSTALLATIONS.—Each Secretary of a military department may provide for a childcare coordinator at each military installation under the jurisdiction of the Secretary at which are stationed significant numbers of members of the Armed Forces with accompanying dependent children, as determined by the Secretary. The childcare coordinator may work with the commander of the installation to ensure that childcare is available and responsive to the needs of members assigned to the installation.”

REPORTS ON CHILD DEVELOPMENT CENTERS AND FINANCIAL ASSISTANCE FOR CHILD CARE FOR MEMBERS OF THE ARMED FORCES

Pub. L. 111-383, div. A, title V, §587, Jan. 7, 2011, 124 Stat. 4230, provided that:

“(a) REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act [Jan. 7, 2011], and every two years thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense child development centers and financial assistance for child care provided by the Department of Defense off-installation to members of the Armed Forces.

“(b) ELEMENTS.—Each report required by subsection (a) shall include the following, current as of the date of such report:

“(1) The number of child development centers currently located on military installations.

“(2) The number of dependents of members of the Armed Forces utilizing such child development centers.

“(3) The number of dependents of members of the Armed Forces that are unable to utilize such child development centers due to capacity limitations.

“(4) The types of financial assistance available for child care provided by the Department of Defense off-installation to members of the Armed Forces (including eligible members of the reserve components).

“(5) The extent to which members of the Armed Forces are utilizing such financial assistance for child care off-installation.

“(6) The methods by which the Department of Defense reaches out to eligible military families to increase awareness of the availability of such financial assistance.

“(7) The formulas used to calculate the amount of such financial assistance provided to members of the Armed Forces.

“(8) The funding available for such financial assistance in the Department of Defense and in the military departments.

“(9) The barriers to access, if any, to such financial assistance faced by members of the Armed Forces, including whether standards and criteria of the Department of Defense for child care off-installation may affect access to child care.

“(10) Any other matters the Secretary considers appropriate in connection with such report, including with respect to the enhancement of access to Department of Defense child care development centers and financial assistance for child care off-installation for members of the Armed Forces.”

§ 1792. Child care employees

(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall prescribe regulations implementing a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee.

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

- (A) Early childhood development.
- (B) Activities and disciplinary techniques appropriate to children of different ages.
- (C) Child abuse prevention and detection.
- (D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

(2) The duties of such employees shall include the following:

- (A) Special teaching activities at the center.
- (B) Daily oversight and instruction of other child care employees at the center.
- (C) Daily assistance in the preparation of lesson plans.
- (D) Assistance in the center's child abuse prevention and detection program.
- (E) Advising the director of the center on the performance of other child care employees.

(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

(c) COMPETITIVE RATES OF PAY.—(1) For the purpose of providing military child development centers with a qualified and stable civilian workforce, employees at a military installation who are directly involved in providing child care and who are paid from nonappropriated funds—

(A) in the case of entry-level employees, shall be paid a rate of pay competitive with the rates of pay paid to other equivalent non-Federal positions within the metropolitan statistical area or non-metropolitan statistical area (as the case may be) in which such Department employee's position is located; and

(B) in the case of any employee not covered by subparagraph (A), shall be paid a rate of

pay competitive with the rates of pay paid to other employees with similar training, seniority, and experience within the metropolitan statistical area or non-metropolitan statistical area (as the case may be) in which such Department employee's position is located.

(2) Notwithstanding paragraph (1), no employee shall receive a rate of pay under this subsection that is lower than the minimum hourly rate of pay applicable to civilian employees of the Department of Defense.

(3) For purposes of determining the rates of pay under paragraph (1), the Secretary shall use the metropolitan and nonmetropolitan area occupational employment and wage estimates published monthly by the Bureau of Labor Statistics.

(d) COMPETITIVE SERVICE POSITION DEFINED.—In this section, the term “competitive service position” means a position in the competitive service, as defined in section 2102(a)(1) of title 5. (Added Pub. L. 104-106, div. A, title V, § 568(a)(1), Feb. 10, 1996, 110 Stat. 332; amended Pub. L. 105-85, div. A, title X, § 1073(a)(34), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 105-261, div. A, title XI, § 1106, Oct. 17, 1998, 112 Stat. 2142; Pub. L. 118-159, div. A, title V, § 583(a), Dec. 23, 2024, 138 Stat. 1911.)

Editorial Notes

AMENDMENTS

2024—Subsec. (c). Pub. L. 118-159 amended subsec. (c) generally. Prior to amendment, subsec. (c) provided for competitive rates of pay for employees providing child care.

1998—Subsecs. (d), (e). Pub. L. 105-261 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows:

“(d) EMPLOYMENT PREFERENCE PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a program under which qualified spouses of members of the armed forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position.

“(2) A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 1784 of this title, in the same geographic area as the military child development center.”

1997—Subsec. (a)(1). Pub. L. 105-85, § 1073(a)(34)(A), struck out comma after “implementing”.

Subsec. (d)(2). Pub. L. 105-85, § 1073(a)(34)(B), substituted “section 1784” for “section 1794”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118-159, div. A, title V, § 583(b)(1), Dec. 23, 2024, 138 Stat. 1911, provided that: “The amendment made by subsection (a) [amending this section] shall take effect not later than April 1, 2025.”

RATES OF PAY

Pub. L. 118-159, div. A, title V, § 583(b)(2), Dec. 23, 2024, 138 Stat. 1911, provided that:

“(A) EMPLOYEE PAY RATE NOT REDUCED.—The rate of pay for any individual who is an employee covered by subsection (c) of section 1792 of title 10, United States Code, as amended by subsection (a) of this section, on the date of the enactment of this Act [Dec. 23, 2024] shall not be reduced by operation of such amendment.