

**Editorial Notes****PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 773 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

**AMENDMENTS**

2021—Pub. L. 116-283 substituted “an individual” for “a person” in two places, and substituted “individual’s” for “person’s” and “An individual” for “A person”.

2018—Pub. L. 115-282 renumbered section 727 of this title as this section.

2006—Pub. L. 109-241 substituted “judge advocate” for “law specialist”.

2004—Pub. L. 108-293 substituted “one year” for “three years” in second sentence.

**§ 3738a. Direct commissioning authority for individuals with critical skills**

An individual with critical skills that the Commandant considers necessary for the Coast Guard to complete its missions who is not currently serving as an officer in the Coast Guard may be commissioned into the Coast Guard at a grade up to and including commander.

(Added Pub. L. 116-283, div. G, title LVXXXII [LXXXII], § 8205(a), Jan. 1, 2021, 134 Stat. 4648.)

**§ 3739. Promotion of Reserve officers on active duty**

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 21 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 21 of this title.

(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 21 of this title, shall be promoted to that grade as though selected under this subchapter.

(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 21 of this title shall count for all purposes.

(Added Pub. L. 96-322, § 1, Aug. 4, 1980, 94 Stat. 1009, § 728; renumbered § 3739 and amended Pub. L. 115-282, title I, §§ 118(b), 123(c)(2)(B), Dec. 4, 2018, 132 Stat. 4233, 4241.)

**Editorial Notes****PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 791 of this title prior to the complete

revision of former chapter 21 of this chapter by Pub. L. 96-322.

**AMENDMENTS**

2018—Pub. L. 115-282, § 123(c)(2)(B), substituted “chapter 21” for “chapter 11” wherever appearing.

Pub. L. 115-282, § 118(b), renumbered section 728 of this title as this section.

**§ 3740. Promotion; recommendations of selection boards**

(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d)(1) Before convening a selection board to recommend Reserve officers for promotion, the Secretary shall establish a promotion zone for officers serving in each grade to be considered by the board. The Secretary shall determine the number of officers in the promotion zone for officers serving in any grade from among officers who are eligible for promotion in that grade.

(2)(A) Before convening a selection board to recommend Reserve officers for promotion to a grade (other than the grade of lieutenant (junior grade)), the Secretary shall determine the maximum number of officers in that grade that the board may recommend for promotion.

(B) The Secretary shall make the determination under subparagraph (A) of the maximum number that may be recommended with a view to having in an active status a sufficient number of Reserve officers in each grade to meet the needs of the Coast Guard for Reserve officers in an active status.

(C) In order to make the determination under subparagraph (B), the Secretary shall determine the following:

(i) The number of positions needed to accomplish mission objectives that require officers in the grade to which the board will recommend officers for promotion.

(ii) The estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted.

(iii) The number of officers authorized by the Secretary to serve in an active status in the grade under consideration.

(iv) Any statutory limitation on the number of officers in any grade authorized to be in an active status.

(3)(A) The Secretary may, when the needs of the Coast Guard require, authorize the consideration of officers in a grade above lieutenant (junior grade) for promotion to the next higher grade from below the promotion zone.