

§ 3017. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) who—

(i) is entitled to basic educational assistance under this chapter; or

(ii) is on active duty in the Armed Forces and but for clause (1)(A)(i) or clause (2) of section 3011(a) or clause (1)(A)(i) or (ii) or clause (2) of section 3012(a) of this title would be eligible for such basic educational assistance; and

(B) who dies while on active duty or within one year after discharge or release from active duty,

the Secretary shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemembers' Group Life Insurance policy.

(ii) The surviving spouse of the individual.

(iii) The surviving child or children of the individual, in equal shares.

(iv) The surviving parent or parents of the individual, in equal shares.

(B) If no such person survives such individual, no payment shall be made under this section.

(b) The amount of any payment made under this section shall be equal to—

(1) the total of—

(A) the amount reduced from the individual's basic pay under section 3011(b), 3012(c), 3018(c), 3018A(b), 3018B(b), 3018C(b), or 3018C(e) of this title;

(B) the amount reduced from the individual's retired pay under section 3018C(e) of this title;

(C) the amount collected from the individual by the Secretary under section 3018B(b), 3018C(b), or 3018C(e) of this title; and

(D) the amount of any contributions made by the individual under section 3011(e) or 3012(f) of this title, less

(2) the total of—

(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 3035(b)(1), it shall be considered to be an entitlement earned under this chapter.

(Added Pub. L. 100-689, title I, §101(a), Nov. 18, 1988, 102 Stat. 4161, §1417; amended Pub. L. 101-237, title IV, §423(a)(3), (b)(1)(A), Dec. 18, 1989,

103 Stat. 2091, 2092; renumbered §3017 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §308, Oct. 29, 1992, 106 Stat. 4329; Pub. L. 104-275, title IV, §405(c)(2), Oct. 9, 1996, 110 Stat. 3340; Pub. L. 106-419, title I, §102(a)(2), Nov. 1, 2000, 114 Stat. 1824; Pub. L. 107-14, §7(d)(1), June 5, 2001, 115 Stat. 33; Pub. L. 109-233, title V, §503(4), June 15, 2006, 120 Stat. 416.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b)(1)(D). Pub. L. 109-233 substituted “3011(e)” for “3011(c)”.

2001—Subsec. (b)(1). Pub. L. 107-14 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the amount reduced from the individual's pay under section 3011(b), 3012(c), or 3018(c) of this title, less”.

2000—Subsec. (a)(1)(A)(ii). Pub. L. 106-419 substituted “clause (2) of section 3011(a)” for “clause (2)(A) of section 3011(a)”.

1996—Subsec. (a)(2)(A)(i). Pub. L. 104-275 substituted “Servicemembers' Group” for “Servicemen's Group”.

1992—Subsec. (a)(1)(B). Pub. L. 102-568 inserted before comma “or within one year after discharge or release from active duty”.

1991—Pub. L. 102-83, §5(a), renumbered section 1417 of this title as this section.

Subsec. (a)(1)(A)(ii). Pub. L. 102-83, §5(c)(1), substituted “3011(a)” for “1411(a)” and “3012(a)” for “1412(a)”.

Subsec. (b)(1). Pub. L. 102-83, §5(c)(1), substituted “3011(b), 3012(c), or 3018(c)” for “1411(b), 1412(c), or 1418(c)”.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3035(b)(1)” for “1435(b)(1)”.

1989—Subsec. (a)(1). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (a)(1)(A)(ii). Pub. L. 101-237, §423(a)(3), substituted “but for clause (1)(A)(i) or clause (2)(A) of section 1411(a) or clause (1)(A)(i) or (ii) or clause (2) of section 1412(a) of this title” for “but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, §7(d)(2), June 5, 2001, 115 Stat. 33, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as of May 1, 2001.”

EFFECTIVE DATE

Pub. L. 100-689, title I, §101(c), Nov. 18, 1988, 102 Stat. 4162, provided that: “The amendments made by this section [enacting this section] shall take effect as of July 1, 1985.”

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the “open period”), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary of Defense shall prescribe, to withdraw an election made under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

(1) while serving on active duty during the open period, makes a withdrawal of such an election;

(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

(3)(A) serves the obligated period of service described in clause (2) of this subsection;

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Secretary determines is not service connected, (iii) hardship, or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy); or

(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

(4) before applying for benefits under this section—

(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(5) upon completion of such obligated period of service—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed

Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 3011(c)(1) or 3012(d)(1) of this title shall be reduced by—

(1) \$1,200; or

(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by \$1,200, an amount less than \$1,200.

(d) A withdrawal under subsection (b)(1) of this section is irrevocable.

(Added Pub. L. 100-689, title I, §103(a), Nov. 18, 1988, 102 Stat. 4164, §1418; amended Pub. L. 101-237, title IV, §423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, §10(a)(2), Mar. 22, 1991, 105 Stat. 55; renumbered §3018 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-86, title V, §506(b)(2), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102-568, title III, §309(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 105-368, title II, §203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106-419, title I, §102(c), Nov. 1, 2000, 114 Stat. 1825; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315.)

Editorial Notes

AMENDMENTS

2002—Subsec. (b)(3)(B)(iv). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2000—Subsec. (b)(4). Pub. L. 106-419 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “before completing such obligated period of service (i) has completed the requirements of a secondary school diploma (or an equivalency certificate), or (ii) has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and”.

1998—Subsec. (b)(4)(ii). Pub. L. 105-368 substituted “successfully completed (or otherwise received academic credit for)” for “successfully completed”.

1992—Subsec. (b)(3)(B)(iv). Pub. L. 102-568 added cl. (iv).

1991—Pub. L. 102-83, §5(a), renumbered section 1418 of this title as this section.

Subsec. (a). Pub. L. 102-86 made technical amendment to directory language of Pub. L. 101-237, §423(b)(4)(A). See 1989 Amendment note below.

Pub. L. 102-83, §5(c)(1), substituted “3011(c)(1) or 3012(d)(1)” for “1411(c)(1) or 1412(d)(1)” in concluding provisions.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3011(c)(1) or 3012(d)(1)” for “1411(c)(1) or 1412(d)(1)” in introductory provisions.

Subsec. (b)(4). Pub. L. 102-16 substituted “service (i)” for “service,” and added cl. (ii).

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3011(c)(1) or 3012(d)(1)” for “1411(c)(1) or 1412(d)(1)” in introductory provisions.

1989—Subsec. (a). Pub. L. 101-237, §423(b)(4)(A), as amended by Pub. L. 102-86, inserted “of Defense” after “Secretary” in concluding provisions.

Subsec. (b)(3)(B). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105-368, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-568, title III, § 309(b), Oct. 29, 1992, 106 Stat. 4329, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if enacted on December 1, 1988."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-86, title V, § 506(b), Aug. 14, 1991, 105 Stat. 426, provided that the amendment made by section 506(b)(2) is effective as of Dec. 18, 1989.

§ 3018A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

(a) Notwithstanding any other provision of law, an individual who—

(1) after February 2, 1991, is involuntarily separated (as such term is defined in section 1141 of title 10) with an honorable discharge;

(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

(3) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3), before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3),

is entitled to basic educational assistance under this chapter.

(b) The basic pay of an individual described in subsection (a) shall be reduced by \$1,200.

(c) A withdrawal referred to in subsection (a)(3) is irrevocable.

(d)(1) Except as provided in paragraph (3), an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in

subsection (a)(4) shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) shall remain in such Account to make payments of benefits to such individual under section 3015(f) of this title.

(Added Pub. L. 101-510, div. A, title V, § 561(a)(1), Nov. 5, 1990, 104 Stat. 1571, § 1418A; amended Pub. L. 102-25, title VII, § 705(c)(1), Apr. 6, 1991, 105 Stat. 120; renumbered § 3018A and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, § 1201(d)(4), (i)(4), Nov. 2, 1994, 108 Stat. 4684, 4688; Pub. L. 105-368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 107-296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109-233, title V, § 503(5), June 15, 2006, 120 Stat. 416.)

Editorial Notes

AMENDMENTS

2006—Subsec. (a)(4), (5). Pub. L. 109-233, § 503(5)(B), struck out "of this subsection" after "paragraph (3)".

Subsecs. (b), (c). Pub. L. 109-233, § 503(5)(A), struck out "of this section" after "subsection (a)" in subsec. (b) and after "subsection (a)(3)" in subsec. (c).

Subsec. (d)(1). Pub. L. 109-233, § 503(5)(B), struck out "of this subsection" after "paragraph (3)" and after "subsection (a)(4)".

Subsec. (d)(3). Pub. L. 109-233, § 503(5)(B), (C), struck out "of this subsection" after "paragraph (1)" and substituted "of this title" for "of this chapter".

2002—Subsec. (a)(3). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1998—Subsec. (a)(2). Pub. L. 105-368 substituted "successfully completed (or otherwise received academic credit for)" for "successfully completed".

1994—Subsec. (a)(1). Pub. L. 103-446, § 1201(i)(4), substituted "after February 2, 1991," for "after December 31, 1990, or the end of the 90-day period beginning on the date of the enactment of this section, whichever is later,".

Subsec. (d)(3). Pub. L. 103-446, § 1201(d)(4), substituted "section 3015(f)" for "section 3015(e)".

1991—Pub. L. 102-83, § 5(a), renumbered section 1418A of this title as this section.

Subsec. (a)(1). Pub. L. 102-25 substituted "section 1141 of title 10" for "section 1142 of title 10".

Subsec. (a)(3). Pub. L. 102-83, § 5(c)(1), substituted "3011(c)(1) or 3012(d)(1)" for "1411(c)(1) or 1412(d)(1)".

Subsec. (d)(2), (3). Pub. L. 102-83, § 5(c)(1), substituted "3223(b)" for "1623(b)", "3222(a)" for "1622(a)", and "3222(c)" for "1622(c)" in par. (2) and "3222" for "1622" and "3015(e)" for "1415(e)" in par. (3).