

(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, local, or other penal institution or correctional facility for conviction of a felony.

(c) The Secretary shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, local, or other penal institution or correctional facility for conviction of a felony.

(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after October 7, 1980, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

(e) For purposes of this section—

(1) The term “compensation” includes disability compensation payable under section 1151 of this title.

(2) The term “dependency and indemnity compensation” means death compensation payable under section 1121 or 1141 of this title, death compensation and dependency and indemnity compensation payable under section 1151 of this title, and any benefit payable under chapter 13 of this title.

(Added Pub. L. 96-385, title V, § 504(a), Oct. 7, 1980, 94 Stat. 1534, § 3113; amended Pub. L. 98-160, title VII, § 702(17), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5313 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§ 4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 105-368, title X, § 1005(b)(16), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 109-461, title X, § 1002(f), Dec. 22, 2006, 120 Stat. 3465.)

Editorial Notes

AMENDMENTS

2006—Subsecs. (a)(1), (b)(3), (c). Pub. L. 109-461 substituted “local, or other penal institution or correctional facility” for “or local penal institution”.

1998—Subsec. (d)(1). Pub. L. 105-368 substituted “October 7, 1980,” for “the date of the enactment of this section.”

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3113 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, § 5(c)(1), substituted “1114(a)” for “314(a)” in subpars. (A) and (B).

Subsec. (b)(1). Pub. L. 102-40, § 402(d)(1), substituted “5307” for “3107”.

Subsec. (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

Subsec. (e). Pub. L. 102-83, § 5(c)(1), substituted “1151” for “351” in par. (1) and “1121”, “1141”, and “1151” for “321”, “341”, and “351”, respectively, in par. (2).

1983—Subsec. (a)(2). Pub. L. 98-160 substituted “paragraph (1) of this subsection” for “paragraph (1) of this section”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 601(d) of Pub. L. 96-385, set out as an Effective Date of 1980 Amendment note under section 1114 of this title.

LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980

Pub. L. 107-103, title V, § 506, Dec. 27, 2001, 115 Stat. 996, provided that:

“(a) LIMITATION.—Section 5313 of title 38, United States Code, other than subsection (d) of that section, shall apply with respect to the payment of compensation to or with respect to any veteran described in subsection (b).

“(b) COVERED VETERANS.—A veteran described in this subsection is a veteran who is entitled to compensation and who—

“(1) on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and

“(2) remains so incarcerated for conviction of that felony as of the date of the enactment of this Act [Dec. 27, 2001].

“(c) EFFECTIVE DATE.—This section shall apply with respect to the payment of compensation for months beginning on or after the end of the 90-day period beginning on the date of the enactment of this Act [Dec. 27, 2001].

“(d) COMPENSATION DEFINED.—For purposes of this section, the term ‘compensation’ has the meaning given that term in section 5313 of title 38, United States Code.”

§ 5313A. Limitation on payment of clothing allowance to incarcerated veterans

In the case of a veteran who is incarcerated in a Federal, State, local, or other penal institution or correctional facility for a period in excess of 60 days and who is furnished clothing without charge by the institution, the amount of any annual clothing allowance payable to the veteran under section 1162 of this title shall be reduced by an amount equal to $\frac{1}{365}$ of the amount of the allowance otherwise payable under that section for each day on which the veteran was so incarcerated during the 12-month period preceding the date on which payment of the allowance would be due. This section shall be carried out under regulations prescribed by the Secretary.

(Added Pub. L. 104-275, title V, § 502(a), Oct. 9, 1996, 110 Stat. 3341; amended Pub. L. 109-461, title X, § 1002(g), Dec. 22, 2006, 120 Stat. 3465.)

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-461 substituted “local, or other penal institution or correctional facility” for “or local penal institution”.

§ 5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such ben-