
**LAWS RELATING TO THE FAMILY AND SPOUSE
OF MEMBERS OF THE ARMED FORCES**

[As amended through Public Law 110-5, February 15, 2006]

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CONTENTS

	Page
FAMILY AND SPOUSE PROVISIONS:	
1. SPECIAL ANNUITY PROGRAMS FOR CERTAIN SURVIVING SPOUSES NOT COVERED BY SURVIVOR BENEFIT PLAN (including the following laws):	
a. Minimum Income for Certain Widows (Section 4 of Public Law 92-425)	5
b. Section 5 of the Uniformed Services Survivor Benefits Amendments of 1980 (Public Law 96-402)	6
c. Section 653 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456)	7
d. Relief from Previous Overpayments (Section 635 of Public Law 104-106)	9
e. Annuities for Certain Military Surviving Spouses (Section 644 of Public Law 105-85)	9
f. One-Year Open Enrollment Period for Survivor Benefit Plan Commencing October 1, 2005 (Section 645 of Public Law 108-375)	10
g. Phased elimination of two-tier annuity computation for surviving spouses under Survivor Benefit Plan (Section 644 of Public Law 108-375)	??
2. DEFENSE DEPENDENTS' EDUCATION (including the following laws):	
a. Defense Dependents' Education Act of 1978	15
b. Pilot Program on Private Operation of Defense Dependents' Schools (Section 355 of Public Law 104-106)	24
c. Defense Department Overseas Teachers Pay and Personnel Practices Act	25
3. ANNUAL IMPACT AID (including provisions from the following laws):	
a. Section 531 of the Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84)	
b. Subtitle H of title V of John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364)	31
c. Subtitle G of title V of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163)	34
d. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398)	35
4. COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR (Section 612 of Public Law 99-661)	41
5. REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL (Section 637 of Public Law 100-180)	42

	Page
6. PREVENTION OF DOMESTIC VIOLENCE (including provisions from the following laws):	
a. Victims' Advocates Programs in Department of Defense (Section 534 of Public Law 103-337)	42
b. Subtitle K of title V of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65)	44
c. Sexual Assault in the Armed Forces (Subtitle K of title V of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375))	48
d. Improvement to Department of Defense Capacity to Respond to Sexual Assault Affecting Members of the Armed Forces (Section 596 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163))	53
7. CHILD SUPPORT AND ALIMONY OBLIGATIONS:	
a. Enforcement of Child Support Obligations of Members (Section 363 of Public Law 104-193)	54
b. Pilot Program on Alternative Notice of Receipt of Legal Process for Garnishment of Federal Pay for Child Support and Alimony (Section 1061 of Public Law 105-261)	56

1. SPECIAL ANNUITY PROGRAMS FOR CERTAIN SURVIVING SPOUSES NOT COVERED BY SURVIVOR BENEFIT PLAN

a. Section 4 of Public Law 92-425

(Minimum Income for Certain Widows)

SEC. 4. [10 U.S.C. 1448 note] (a) A person—

(1) who, on September 21, 1972, was, or during the period beginning on September 22, 1972, and ending on March 20, 1974, became a widow of a person who was entitled to retired or retainer pay when he died;

(2) who is eligible for a pension under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 [38 U.S.C. 521 note]; and

(3) whose annual income, as determined in establishing that eligibility, is less than the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code;

shall be paid an annuity by the Secretary concerned unless she is eligible to receive an annuity under the Survivor Benefit Plan established pursuant to clause (3) of the first section of this Act [subchapter II of chapter 73 of title 10, United States Code]. However, such a person who is the widow of a retired officer of the Public Health Service or the National Oceanic and Atmospheric Administration, and who would otherwise be eligible for an annuity under this section except that she does not qualify for the pension described in clause (2) of this subsection because the service of her deceased spouse is not considered active duty under section 101(21) of title 38, United States Code, is entitled to an annuity under this section.

(b) The annuity under subsection (a) of this section shall be in an amount which when added to the widow's income determined under subsection (a)(3) of this section, plus the amount of any annuity being received under sections 1431-1436 of title 10, United States Code, but exclusive of a pension described in subsection (a)(2) of this section, equals the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code. In addition, the Secretary concerned shall pay to the widow, described in the last sentence of subsection (a) of this section, an amount equal to the pension she would otherwise have been eligible to receive under subchapter III of chapter 15 of title 38, United States Code, if the service of her deceased spouse was considered active duty under section 101(21) of that title.

(c) The amount of an annuity payable under this section, although counted as income in determining the amount of any pension described in subsection (a)(2) of this section, shall not be considered to affect the eligibility of the recipient of such annuity for such pension, even though, as a result of including the amount of the annuity as income, no amount of such pension is due.

(d) Subsection 1450(i) and section 1453 as added to title 10, United States Code, by clause (3) of the first section of this Act, are applicable to persons covered by this section.

(e)(1) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. In making such payments, the Secretary shall combine with the payment under this section payment of any amount due the same person under section 653(d) of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 1448 note). If appropriate for administrative convenience (or otherwise determined appropriate by the Secretary of Veterans Affairs), that Secretary may combine a payment to any person for any month under this section (and, if applicable, under section 653(d) of the National Defense Authorization Act, Fiscal Year 1989) with any other payment for that month under laws administered by the Secretary so as to provide that person with a single payment for that month.

(2) The Secretary concerned shall annually transfer to the Secretary of Veterans Affairs such amounts as may be necessary for payments by the Secretary of Veterans Affairs under this section and for costs of the Secretary of Veterans Affairs in administering this section. Such transfers shall be made from amounts that would otherwise be used for payment of annuities by the Secretary concerned under this section. The authority to make such a transfer is in addition to any other authority of the Secretary concerned to transfer funds for a purpose other than the purpose for which the funds were originally made available. In the case of a transfer by the Secretary of a military department, the provisions of section 2215 of title 10, United States Code, do not apply.

(3) The Secretary concerned shall promptly notify the Secretary of Veterans Affairs of any change in beneficiaries under this section.

b. Section 5 of the Uniformed Services Survivor Benefits Amendments of 1980

(Public Law 96-402)

SEC. 5. [10 U.S.C. 1448 note] (a)(1) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse of a member of the uniformed services who—

(A) died before September 21, 1972;

(B) was serving on active duty in the uniformed services at the time of his death and had served on active duty for a period of not less than 20 years; and

(C) was at the time of his death entitled to retired or retainer pay or would have been entitled to that pay except that he had not applied for or been granted that pay.

(2) An annuity under paragraph (1) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if such member had died on or after September 21, 1972.

(b)(1) The amount of retired or retainer pay to be used as the basis for the computation of an annuity under subsection (a) is the amount of the retired or retainer pay to which the member would have been entitled if the member had been entitled to that pay based upon his years of active service when he died, adjusted by the overall percentage increase in retired and retainer pay under section 1401a of title 10, United States Code (or any prior comparable provision of law), during the period beginning on the date of the member's death and ending on the day before the effective date of this section.

(2) In addition to any reduction required under the provisions of subchapter II of chapter 73 of title 10, United States Code, the annuity pay to any surviving spouse under this section shall be reduced by any amount such surviving spouse is entitled to receive as an annuity under subchapter I of such chapter.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

(d) As used in this section:

(1) The term "uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning, given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

**c. Section 653 of the National Defense Authorization Act,
Fiscal Year 1989**

(Public Law 100-456)

SEC. 653. [10 U.S.C. 1448 note] ANNUITY FOR CERTAIN SURVIVING SPOUSES

(a) ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried and who is eligible for

an annuity under section 4 of Public Law 92-425 (10 U.S.C. 1448 note).

(b) AMOUNT OF ANNUITY.—(1) An annuity payable under this section shall be paid at the rate of \$165 per month, as adjusted from time to time under subsection (c).

(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 1311(a) of title 38, United States Code.

(c) COST-OF-LIVING INCREASES.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on monthly annuity payable before any reduction under this section.

(d) RELATIONSHIP TO OTHER PROGRAMS.—(1) An annuity paid to a surviving spouse under this section is in addition to any pension to which the surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425. An annuity paid under this section shall not be considered as income for the purposes of eligibility for any such pension.

(2) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. In making such payments, the Secretary shall combine the payment under this section with the payment of any amount due the same person under section 4 of Public Law 92-425 (10 U.S.C. 1448 note), as provided in subsection (e)(1) of that section. The Secretary concerned shall transfer amounts for payments under this section to the Secretary of Veterans Affairs in the same manner as is provided under subsection (e)(2) of section 4 of Public Law 92-425 for payments under that section.

(e) DEFINITIONS.—For purposes of this section:

(1) The terms “uniformed services” and “Secretary concerned” have the meanings given those terms in section 101 of title 37, United States Code.

(2) The term “surviving spouse” has the meaning given the terms “widow” and “widower” in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(f) EFFECTIVE DATE.—Annuities under this section shall be paid for months beginning after the month in which this Act is enacted [Sept. 1988]. No benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in the preceding sentence. No benefit shall be paid to any person under this section unless an application for such benefit has been filed with the Secretary concerned by or on behalf of such person.

d. Section 635 of the National Defense Authorization Act for Fiscal Year 1996

(Public Law 104–106, as approved February 10, 1996)

SEC. 635. [10 U.S.C. 1448 note] AUTHORITY FOR RELIEF FROM PREVIOUS OVERPAYMENTS UNDER MINIMUM INCOME WIDOWS PROGRAM.

(a) **AUTHORITY.**—The Secretary of Defense may waive recovery by the United States of any overpayment by the United States described in subsection (b). In the case of any such waiver, any debt to the United States arising from such overpayment is forgiven.

(b) **COVERED OVERPAYMENTS.**—Subsection (a) applies in the case of an overpayment by the United States that—

(1) was made before the date of the enactment of this Act under section 4 of Public Law 92–425 (10 U.S.C. 1448 note); and

(2) is attributable to failure by the Department of Defense to apply the eligibility provisions of subsection (a) of such section in the case of the person to whom the overpayment was made.

e. Section 644 of the National Defense Authorization Act for Fiscal Year 1998

(Public Law 105–85)

SEC. 644. [10 U.S.C. 1448 note] ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.

(a) **SURVIVOR ANNUITY.**—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) became entitled to retired or retainer pay before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

(B) died before October 1, 1978, and at the time of his death would have been entitled to retired pay under chapter 67 of title 10, United States Code (as in effect before December 1, 1994), but for the fact that he was under 60 years of age.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried.

(b) **AMOUNT OF ANNUITY.**—(1) An annuity under this section shall be paid at the rate of \$185.58 per month, as adjusted from time to time under paragraph (3).

(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

(B) Chapter 73 of title 10, United States Code.

(C) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

(3) Whenever after May 1, 2002, retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code,

each annuity that is payable under this section shall be increased at the same time and by the same total percent.

(c) APPLICATION REQUIRED.—No benefit shall be paid to any person under this section unless an application for such benefit is filed with the Secretary concerned by or on behalf of such person.

(d) DEFINITIONS.—For purposes of this section:

(1) The terms “uniformed services” and “Secretary concerned” have the meanings given such terms in section 101 of title 37, United States Code.

(2) The term “surviving spouse” has the meaning given such term in paragraph (9) of section 1447 of title 10, United States Code.

(e) PROSPECTIVE APPLICABILITY.—(1) Annuities under this section shall be paid for months beginning after November 1997.

(2) No benefit shall accrue to any person by reason of the enactment of this section for any period before December 1997.

f. One-Year Open Enrollment Period for Survivor Benefit Plan Commencing October 1, 2005

Section 645 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Public Law 108–375, approved Oct. 28, 2004)

SEC. 645. ONE-YEAR OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as

providing a reserve-component annuity under the Survivor Benefit Plan.

(b) **ELECTION TO INCREASE COVERAGE UNDER SBP.**—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) **ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.**—

(1) **ELECTION.**—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(2) **PERSONS ELIGIBLE.**—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) **LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.**—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) **MANNER OF MAKING ELECTIONS.**—An election under this section shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) **EFFECTIVE DATE FOR ELECTIONS.**—Any such election shall be effective as of the first day of the first calendar month following

the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD.—The open enrollment period under this section is the one-year period beginning on October 1, 2005.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) PREMIUM FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations under paragraph (1) shall be credited to the Department of Defense Military Retirement Fund.

(j) DEFINITIONS.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term “Supplemental Survivor Benefit Plan” means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term “retired pay” includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms “uniformed services” and “Secretary concerned” have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term “Department of Defense Military Retirement Fund” means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

g. PHASED ELIMINATION OF TWO-TIER ANNUITY COMPUTATION FOR SURVIVING SPOUSES UNDER SURVIVOR BENEFIT PLAN

Section 644 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Public Law 108–375, approved Oct. 28, 2004)

[As Amended Through P.L. 110–417, Enacted October 14, 2008]

SEC. 644. PHASED ELIMINATION OF TWO-TIER ANNUITY COMPUTATION FOR SURVIVING SPOUSES UNDER SURVIVOR BENEFIT PLAN.

(a) * * *

* * * * *

(c) **[10 U.S.C. 1450 note] RECOMPUTATION OF ANNUITIES.—**

(1) **PERIODIC RECOMPUTATION REQUIRED.—**Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) **TIME FOR RECOMPUTATION.—**The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

- (A) October 2005.
- (B) April 2006.
- (C) April 2007.
- (D) April 2008.

(3) SAVINGS PROVISION.—If, as a result of the recomputation of annuities under section 1450 of title 10, United States Code, and supplemental survivor annuities under section 1457 of such title, as required by paragraph (1), the total amount of both annuities to be paid to an annuitant for a month would be less (because of the offset required by section 1450(c) of such title for dependency and indemnity compensation) than the amount that would be paid to the annuitant in the absence of recomputation, the Secretary of Defense shall take such actions as are necessary to adjust the annuity amounts to eliminate the reduction.

(d) **[10 U.S.C. 1460 note]**¹ TERMINATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—(1) Except as provided in paragraph (2), there shall be no reduction in retired pay under section 1460 of title 10, United States Code, for any month beginning after the date of the enactment of this Act.

(2) Reductions in retired pay under section 1460 of title 10, United States Code, shall be made for months after September 2005 in the case of coverage under subchapter III of chapter 73 of title 10, United States Code, that is provided (for new coverage or increased coverage) through an election under the open season provided by section 645. The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that reductions in retired pay under section 1460 of title 10, United States Code, pursuant to the preceding sentence are adjusted to achieve the objectives set forth in subsection (b) of that section.

¹Section 1460 of title 10, USC was repealed effective on April 1, 2008. Therefore, the USC citation for subsection (d) could be relocated to another section in such title.

2. DEFENSE DEPENDENTS' EDUCATION

a. Defense Dependents' Education Act of 1978

(title XIV of Public Law 95-561)

[As Amended Through P.L. 111-84, Enacted October 28, 2009]

SHORT TITLE

SEC. 1401. This title may be cited as the "Defense Dependents' Education Act of 1978".

ESTABLISHMENT OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1402. [20 U.S.C. 921] (a) The Secretary of Defense shall establish and operate a program (hereinafter in this title referred to as the "defense dependents' education system") to provide a free public education through secondary school for dependents in overseas areas.

(b)(1) The Secretary shall ensure that individuals eligible to receive a free public education under subsection (a) receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a), the Secretary shall provide programs designed to meet the special needs of—

- (A) the handicapped,
- (B) individuals in need of compensatory education,
- (C) individuals with an interest in vocational education,
- (D) gifted and talented individuals, and
- (E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

(c) The Secretary of Defense shall consult with the Secretary of Education on the educational programs and practices of the defense dependents' education system.

(d)(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate.

(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying

the costs of conducting summer school programs under this subsection.

ADMINISTRATION OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1403. [20 U.S.C. 922] (a) The defense dependents' education system is operated through the field activity of the Department of Defense known as the Department of Defense Education Activity. That activity is headed by a Director, who is a civilian and is selected by the Secretary of Defense. The Director reports to an Assistant Secretary of Defense designated by the Secretary of Defense for purposes of this title.

(b) Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this title through the Director.

(c) The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.), for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 1410, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense designated under subsection (a).

(d)(1) The Director shall establish appropriate regional or area offices in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Whenever the Department of Defense Education Activity is reorganized in a manner that affects the defense dependents' education system, the Secretary of Defense shall submit a report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Department of Defense Education Activity is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

SPACE-AVAILABLE ENROLLMENT OF STUDENTS; TUITION

SEC. 1404. [20 U.S.C. 923] (a) Subject to subsection (b) and in accordance with regulations issued under subsection (c), the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in

such a school if and to the extent that there is space available for such child in the school.

(b)(1) Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c)(1) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(d)(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 1414(2)) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c), the Secretary may not waive the tuition requirements of subsection (b)(1) with respect to children referred to in paragraph (1).

ENROLLMENT OF CERTAIN ADDITIONAL CHILDREN ON TUITION-FREE BASIS

SEC. 1404A. [20 U.S.C. 923a] (a) ENROLLMENT AUTHORIZED.—Under regulations to be prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis of—

(1) the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States; and

(2) the children of a foreign military member assigned to the Supreme Headquarters Allied Powers, Europe, but only in a school of the defense dependents' education system in Mons, Belgium.

(b) FUNDING.—The Secretary may use funds available for the defense dependents' education system to provide for the education of children enrolled in the defense dependents' education system under subsection (a).

(c) SPECIAL RULES REGARDING ENROLLMENT OF DEPENDENTS OF FOREIGN MILITARY MEMBERS ASSIGNED TO SUPREME HEADQUARTERS ALLIED POWERS, EUROPE.—(1) In the regulations required by subsection (a), the Secretary shall prescribe a methodology based on the estimated total number of dependents of sponsors under section 1414(2) enrolled in schools of the defense dependents' education system in Mons, Belgium, to determine the number of children described in paragraph (2) of subsection (a) who will be authorized to enroll under such subsection. The Secretary shall prescribe such methodology with the advice and assistance of the commander of the geographic combatant command with jurisdiction over Mons, Belgium.

(2) If the number of children described in paragraph (2) of subsection (a) who seek enrollment in schools of the defense dependents' education system in Mons, Belgium, exceeds the number authorized by the Secretary under paragraph (1), the Secretary may enroll the additional children on a space-available, tuition-free basis notwithstanding section 1404(d)(2).

ANNUAL EDUCATIONAL ASSESSMENT

SEC. 1405. [20 U.S.C. 924] (a) The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) The results of each annual assessment under subsection (a) with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

SCHOOL CONSTRUCTION BY THE DIRECTOR OF DEPENDENTS'
EDUCATION

SEC. 1406. [20 U.S.C. 925] The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

SCHOOL SYSTEM FOR DEPENDENTS IN OVERSEAS AREAS

SEC. 1407. [20 U.S.C. 926] (a) The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) TUITION AND ASSISTANCE WHEN SCHOOLS UNAVAILABLE.—

(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) on a tuition-free basis. Schools to which tuition may be paid under this subsection may include private boarding schools in the United States. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(2)(A) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

(B) The Secretary of Defense and the Secretary of Homeland Security shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.

(c) CONTINUATION OF ENROLLMENT FOR CERTAIN DEPENDENTS OF MEMBERS OF THE ARMED FORCES INVOLUNTARILY SEPARATED.—

(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b)) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the

eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.

(d) **AUXILIARY SERVICES AVAILABLE TO HOME SCHOOL STUDENTS.**—(1) A dependent who is educated in a home school setting, but who is eligible to enroll in a school of the defense dependents' education system, shall be permitted to use or receive auxiliary services of that school without being required to either enroll in that school or register for a minimum number of courses offered by that school. The dependent may be required to satisfy other eligibility requirements and comply with standards of conduct applicable to students actually enrolled in that school who use or receive the same auxiliary services.

(2) For purposes of paragraph (1), the term "auxiliary services" includes use of academic resources, access to the library of the school, after hours use of school facilities, and participation in music, sports, and other extracurricular and interscholastic activities.

(e) **Subsection (e), as redesignated by section 353(1) of P.L. 107–107, added a new section 429 (relating to travel and transportation allowances for minor dependent schooling) to title 37, United States Code.**】

ELIGIBILITY FOR SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 1408. **【Section 1408 amended the National School Lunch Act and the Child Nutrition Act of 1966.】**

ALLOTMENT FORMULA

SEC. 1409. **【20 U.S.C. 927】** (a) The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

- (1) the number of students served by a school and the size of the school;
- (2) special cost factors for a school, including—
 - (A) geographic isolation of the school,
 - (B) a need for special staffing, transportation, or educational programs at the school, and
 - (C) unusual food and housing costs,
- (3) the cost of providing academic services of a high quality as required by section 1402(b)(1); and
- (4) such other factors as the Director considers appropriate.

(b) Any regulation under subsection (a) shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Secretary of Education in accordance with section 437 of the General Education Provisions Act (20 U.S.C. 1232).

(c) **APPLICABILITY OF CERTAIN PROVISIONS.**—

- (1) **CHILDREN WITH DISABILITIES.**—Notwithstanding the provisions of section 1402(b)(3), the provisions of part B of the Individuals with Disabilities Education Act, other than the funding and reporting provisions, shall apply to all schools op-

erated by the Department of Defense under this title, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education.

(2) INFANTS AND TODDLERS WITH DISABILITIES.—The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 636 of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part C of such Act shall apply with respect to all eligible dependents overseas.

(3) IMPLEMENTATION.—In carrying out paragraph (2), the Secretary shall have in effect a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals.

SCHOOL ADVISORY COMMITTEES

SEC. 1410. [20 U.S.C. 928] (a)(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of parents of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school. The membership of each such advisory committee shall also include one nonvoting member designated by the organization recognized as the exclusive bargaining representative of the employees working at the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1), members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members of school advisory committees established under this section shall serve without pay.

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. [20 U.S.C. 929] (a)(1) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(A) the Secretary of Defense and the Secretary of Education, or their respective designees;

(B) 12 individuals appointed jointly by the Secretary of Defense and the Secretary of Education who shall be individuals who have demonstrated an interest in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and parents of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

(C) a representative of the Secretary of Defense and of the Secretary of Education.

(2) Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations.

(3) The Secretary of Defense, or the Secretary's designee, and the Secretary of Education, or the Secretary's designee, shall serve as cochairmen of the Council.

(4) The Director shall be the Executive Secretary of the Council.

(b) The term of office of each member of the Council appointed under subsection (a)(2) shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Defense and the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) shall serve more than two full terms on the Council.

(c) The Council shall meet at least two times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of this title, and

(4) perform such other tasks as may be required by the Secretary of Defense.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(e) The Council shall continue in existence until terminated by law.

STUDY OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1412. [20 U.S.C. 930] (a)(1) The Director may from time to time, but not more frequently than once a year, provide for a comprehensive study of the entire defense dependents' education system. Any such study shall include a detailed analysis of the education programs and the facilities of the system.

(2) Any study under paragraph (1) shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director describing the results of the study and giving its assessment of the defense dependents' education system.

(b) In designing the specifications for any study to be conducted pursuant to subsection (a)(1), and in selecting a contractor to conduct such study under subsection (a)(2), the Director shall consult with the Advisory Council on Dependents' Education established under section 1411 of this title.

(c) The Director shall submit to the Congress any report submitted to him under subsection (a)(2) describing the results of a study carried out pursuant to subsection (a)(1), together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

REGULATIONS

SEC. 1413. [20 U.S.C. 931] The Secretary of Defense shall issue regulations to carry out this title. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

- (4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,
- (5) provide for a recertification program for professional personnel employed in the system, and
- (6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

DEFINITIONS

SEC. 1414. [20 U.S.C. 932] For purposes of this title:

- (1) The term "dependent" means a minor individual—
 - (A) who has not completed secondary schooling, and
 - (B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one half or more of his support from such sponsor.
- (2) The term "sponsor" means a person—
 - (A) who is—
 - (i) a member of the Armed Forces serving on active duty, or
 - (ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and
 - (B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.
- (3) The term "overseas area" means any area situated outside the United States.
- (4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).
- (5) The term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code.
- (6) The term "Director" means the Director of the Department of Defense Education Activity.

EFFECTIVE DATES

SEC. 1415. [20 U.S.C. 921 note] (a)(1) Except as provided in paragraph (2) this title shall take effect on July 1, 1979.

(2) Section 1407(b) and the amendments made by section 1407(c), 1408(a), and 1408(b) shall take effect on October 1, 1978.

(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education.

b. Pilot Program on Private Operation of Defense Dependents' Schools

(Section 355 of the National Defense Authorization Act for Fiscal Year 1996; Public Law 104-106)

SEC. 355. [20 U.S.C. 921 note] PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS.

(a) **PILOT PROGRAM.**—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

(b) **SELECTION OF SCHOOL FOR PROGRAM.**—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

(c) **REPORT.**—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.

c. Defense Department Overseas Teachers Pay and Personnel Practices Act

(Public Law 86-91, approved July 17, 1959)

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Department Overseas Teachers Pay and Personnel Practices Act".

DEFINITIONS

SEC. 2. [20 U.S.C. 901] For the purposes of this Act, the term—

(1) "teaching position" means those duties and responsibilities which—

(A) are performed on a school-year basis principally in a school operated by the Department of Defense in an overseas area for dependents of members of the Armed Forces and dependents of civilian employees of the Department of Defense, or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense; and

(B) involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction; or

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

- (iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity.
- (2) “teacher” means an individual—
- (A) who is a citizen of the United States,
 - (B) who is a civilian, and
 - (C) who is employed in a teaching position described in paragraph (1).
- (3) “overseas area” means any area situated outside the United States.
- (4) “United States”, when used in a geographical sense, means the several States of the United States of America, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Islands).

EXEMPTION OF TEACHERS AND TEACHING POSITIONS FROM
CLASSIFICATION ACT OF 1949

[SEC. 3. Omitted—Amendment]

REGULATIONS OF SECRETARY OF DEFENSE

SEC. 4. [20 U.S.C. 902] (a) Not later than the ninetieth day following the date of enactment of this Act, the Secretary of Defense shall prescribe and issue regulations to carry out the purposes of this Act. Such regulations shall govern—

- (1) the establishment of teaching positions;
- (2) the fixing of basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population;
- (3) the entitlement of teachers to compensation;
- (4) the payment of compensation to teachers;
- (5) the appointment of teachers;
- (6) the conditions of employment of teachers;
- (7) the length of the school year or school years applicable to teaching positions;
- (8) the leave system for teachers;
- (9) quarters, allowances, and additional compensation for teachers; and
- (10) such other matters as may be relevant and appropriate to the purposes of this Act.

(b) The regulations prescribed and issued by the Secretary of Defense under subsection (a) of this section shall become effective on such date as the Secretary of Defense shall prescribe but not later than the ninetieth day following the date of issuance of such regulations.

ADMINISTRATION

SEC. 5. [20 U.S.C. 903] (a) The Secretary of Defense shall conduct the employment and salary practices applicable to teachers

and teaching positions in the Department of Defense in accordance with this Act, other applicable law, and the regulations prescribed and issued by the Secretary of Defense under section 4 of this Act.

(b) Subject to section 203 of the Classification Act of 1949 (5 U.S.C. 1083), the Secretary of Defense—

(1) shall determine the applicability of paragraph (33) of section 202 of such Act, as added by section 3 of this Act, to positions and individuals in the Department of Defense; and

(2) shall establish the appropriate annual salary rate in accordance with this Act for each such position and individual to which such paragraph (33) is determined to be applicable.

(c) The Secretary of Defense shall fix the basic compensation for teachers and teaching positions in the Department of Defense at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population.

(d) The Secretary of Defense may prescribe and issue such regulations as he deems appropriate to carry out his functions under this Act.

LEAVE

SEC. 6. [20 U.S.C. 904] (a) Subject to the regulations prescribed and issued by the Secretary of Defense under section 4 of this Act, each teacher (other than an individual employed as a substitute teacher) shall be entitled to cumulative leave, with pay, which shall accrue at the rate of one day for each calendar month, or part thereof, of a school year, except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten (or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen) days of cumulative leave with pay.

(b) Saturdays, Sundays, regularly scheduled holidays, and other administratively authorized nonwork days shall not be considered to be days of leave for the purposes of subsection (a) of this section.

(c) Subject to the regulations prescribed and issued by the Secretary of Defense, leave earned by any teacher under subsection (a) of this section may be used by such teacher—

(1) for maternity purposes,

(2) in the event of the illness of such teacher,

(3) in the event of illness, contagious disease, or death in the immediate family of such teacher, and

(4) in the event of any personal emergency.

If appropriate advance notice is given of the intended absence of a teacher, not to exceed three days of such leave may be granted for any purpose in each school year to such teacher.

(d) Any individual—

(1) who is holding a position which is determined to be a teaching position, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia who is transferred, promoted, or reappointed, without break in service,

from a position under a different leave system to a teaching position, shall be credited, for the purposes of the leave system provided by this section, with the annual and sick leave to his credit immediately prior to the effective date of such determination, transfer, promotion, or reappointment. Sick leave so credited shall be included in the leave provided for in subsection (a) of this section. Annual leave so credited shall not be included in the leave provided for in such subsection but shall be used under regulations which shall be prescribed by the Secretary of Defense.

(e) In any case in which the amount of sick leave, which is to the credit of any individual under a different leave system immediately prior to the date on which he becomes subject as a teacher to the leave system provided by this section and which is included in the leave provided for in subsection (a) of this section, is in excess of the maximum amount of accumulated leave allowable under subparagraph (2) of such subsection, such excess shall remain to the credit of such teacher until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under subparagraph (2) of subsection (a) of this section.

(f) Any annual leave remaining, upon his separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with the Act of December 21, 1944 (5 U.S.C. 61b and the following), except that leave earned or included under subsection (a) of this section shall not be liquidated.

(g) In the case of any teacher who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under this section, which is to his credit immediately prior to such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the United States Civil Service Commission.

(h) The Director of Dependents' Education, in consultation with the Director of the Office of Personnel Management—

(1) shall establish for teachers a voluntary leave transfer program similar to the one under subchapter III of chapter 63 of title 5, United States Code; and

(2) may establish for teachers a voluntary leave bank program similar to the one under subchapter IV of chapter 63 of title 5, United States Code.

Only leave described in the last sentence of subsection (c) of this section (relating to leave that may be used by a teacher for any purpose) may be transferred under any program established under this subsection.

QUARTERS, QUARTERS ALLOWANCES, AND STORAGE

SEC. 7. [20 U.S.C. 905] (a) Under regulations which shall be prescribed by or under authority of the President, each teacher

(other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to quarters, quarters allowance, and storage as provided by this section.

(b) Each teacher (other than a teacher employed in a substitute capacity) shall be entitled, for each school year for which he performs services as a teacher, to quarters or a quarters allowance equal to those authorized by the Act of June 26, 1930 (5 U.S.C. 118a).

(c) Each teacher (other than a teacher employed in a substitute capacity) who is performing services as a teacher at the close of a school year and agrees in writing to serve as a teacher for the next school year may be authorized, for the recess period immediately preceding such next school year—

(1) quarters or a quarters allowance equal to those authorized by the Act of June 26, 1930 (5 U.S.C. 118a), or

(2) in lieu of such quarters or quarters allowance, storage (including packing, drayage, unpacking, and transportation to and from storage) of his household effects and personal possessions.

(d) If a teacher does not report for service at the beginning of the next school year, he shall, except for reasons beyond his control and acceptable to the Department of Defense, be obligated to the United States in an amount equal to any quarters allowance which he may have received under subsection (c) of this section or in an amount equal to the reasonable value of any quarters or storage which he may have received under such subsection, or both, as the case may be.

(e) Quarters, quarters allowance, and storage provided under this section shall be in lieu of any quarters, quarters allowance, and storage to which he otherwise might be entitled by reason of employment in another position during any recess period between two school years.

(f)(1) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them.

(2) For any period for which military family housing is leased under paragraph (1) to a teacher described in such paragraph, the teacher shall receive a quarters allowance in the amount determined under subsection (b). The teacher is entitled to such quarters allowance without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher.

COST-OF-LIVING ALLOWANCE AND POST DIFFERENTIAL

SEC. 8. [20 U.S.C. 906] (a) Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to—

(1) cost-of-living allowances equal to those authorized by section 5924 of title 5, United States Code, and

(2) additional compensation equal to that authorized under section 207 of the Independent Offices Appropriation Act, 1949 (5 U.S.C. 118h).

(b) The cost-of-living allowances and additional compensation provided under subsection (a) of this section for any teacher shall be based on the teaching position in which he rendered services on a school-year basis, except that, if such teacher is employed in another position during any recess period between two school years, such allowances and compensation for such recess period shall be based on the position in which he is employed during such recess period.

DETERMINATION OF PER ANNUM SALARY RATES OF TEACHING
POSITIONS FOR PURPOSES OF CLASSIFICATION ACT OF 1949

SEC. 9. For the purposes of the application of section 802(a) of the Classification Act of 1949 (5 U.S.C. 1132(a)) to any individual holding a teaching position who comes within the purview of any provision of such section 802(a), the rates of pay established for such position shall be deemed to have been increased by 20 per centum to determine the per annum salary rate of such position.

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 10. [20 U.S.C. 907] (a) The Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 and the following), and the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 901 and the following), shall not apply to teachers and teaching positions.

(b) In the case of any teacher who—

(1) is performing services as a teacher at the close of a school year,

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 7 and 8 of this Act, or both, as the case may be,

section 301 of the Dual Compensation Act shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

(c) Notwithstanding any provision of law, employment of a teacher in the recess period between two school years in a position other than the teaching position in which he rendered service in the school year immediately preceding such recess period shall not be subject to the Federal Employees' Group Life Insurance Act of 1954 (5 U.S.C. 2091–2103) or to the Civil Service Retirement Act (5 U.S.C. 2251–2267).

SAVINGS PROVISION

SEC. 11. The enactment of this Act shall not affect—

(1) any teaching position existing immediately prior to the effective date of the regulations prescribed and issued by the Secretary of Defense under section 4 of this Act.

(2) the compensation attached to such teaching position, or
 (3) any incumbent thereof, his appointment thereto, or his
 right to receive the compensation attached thereto,
 until appropriate action is taken under section 5 of this Act.

EFFECTIVE DATES

SEC. 12. (a) This section and sections 1, 2, 4, and 11 shall be-
 come effective on the date of enactment of this Act.

(b) Sections 3, 5, 6, 7, 8, 9 and 10 shall become effective on the
 effective date of the regulations prescribed and issued by the Sec-
 retary of Defense under section 4 to this Act.

3. ANNUAL IMPACT AID

a. National Defense Authorization Act for Fiscal Year 2010

(Public Law 111-84, approved Oct. 28, 20096)

**SEC. 531. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDU-
 CATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF
 MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF
 DEFENSE CIVILIAN EMPLOYEES.**

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF
 MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be
 appropriated for fiscal year 2010 pursuant to section 301(5) for op-
 eration and maintenance for Defense-wide activities, \$30,000,000
 shall be available only for the purpose of providing assistance to
 local educational agencies under subsection (a) of section 572 of the
 National Defense Authorization Act for Fiscal Year 2006 (Public
 Law 109-163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE
 TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELO-
 CATIONS.—Of the amount authorized to be appropriated for fiscal
 year 2010 pursuant to section 301(5) for operation and mainte-
 nance for Defense-wide activities, \$14,000,000 shall be available
 only for the purpose of providing assistance to local educational
 agencies under subsection (b) of such section 572, as amended by
 section 533 of this Act.

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the
 term “local educational agency” has the meaning given that term
 in section 8013(9) of the Elementary and Secondary Education Act
 of 1965 (20 U.S.C. 7713(9)).

b. National Defense Authorization Act for Fiscal Year 2007

(Public Law 109-364, approved Oct. 17, 2006)

[As Amended Through P.L. 110-417, Enacted October 14, 2008]

TITLE V—MILITARY PERSONNEL POLICY

* * * * *

Subtitle H—Impact Aid and Defense Dependents Education System

* * * * *

SEC. 572. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$35,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of such section 572.

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 573. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

SEC. 574. [20 U.S.C. 7703b note] PLAN AND AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES EXPERIENCING GROWTH IN ENROLLMENT DUE TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS.

(a) PLAN REQUIRED.—Not later than January 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a plan to provide assistance to local educational agencies that experience growth in the enrollment of military dependent students as a result of any of the following events:

- (1) Force structure changes.
- (2) The relocation of a military unit.
- (3) The closure or realignment of military installations pursuant to defense base closure and realignment under the base closure laws.

(b) ELEMENTS.—The report required by subsection (a), and each updated report required by subsection (c), shall include the following:

- (1) An identification, current as of the date of the report, of the total number of military dependent students who are anticipated to be arriving at or departing from military installa-

tions as a result of any event described in subsection (a), including—

(A) an identification of the military installations affected by such arrivals and departures;

(B) an estimate of the number of such students arriving at or departing from each such installation; and

(C) the anticipated schedule of such arrivals and departures.

(2) Such recommendations as the Office of Economic Adjustment of the Department of Defense considers appropriate for means of assisting affected local educational agencies in accommodating increases in enrollment of military dependent students as a result of any such event.

(3) A plan for outreach to be conducted to affected local educational agencies, commanders of military installations, and members of the Armed Forces and civilian personnel of the Department of Defense regarding information on the assistance to be provided under the plan under subsection (a).

(c) UPDATED REPORTS.—Not later than March 1, 2008, and annually thereafter to coincide with the submission of the budget of the President for a fiscal year under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees an update of the report required by subsection (a).

(d) TRANSITION OF MILITARY DEPENDENTS AMONG LOCAL EDUCATIONAL AGENCIES.—(1) The Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transitions of military dependent students from Department of Defense dependent schools to other schools and among schools of local educational agencies.

(2) The Secretary of Defense may use funds of the Department of Defense Education Activity for the following purposes:

(A) To share expertise and experience of the Activity with local educational agencies as military dependent students make the transitions described in paragraph (1), including transitions resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring.

(B) To provide programs for local educational agencies with military dependent students undergoing the transitions described in paragraph (1), including—

(i) distance learning programs; and

(ii) training programs to improve the ability of military dependent students who attend public schools in the United States and their teachers to meet the educational needs of such students.

(3) The authority provided by this subsection expires September 30, 2013.

(e) DEFINITIONS.—In this section:

(1) The term “base closure law” has the meaning given that term in section 101 of title 10, United States Code.

(2) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term “military dependent students” refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces;

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense; and

(C) elementary and secondary school students who are dependents of personnel who are not members of the Armed Forces or civilian employees of the Department of Defense but who are employed on Federal property.

SEC. 575. [10 U.S.C. 1788 note] PILOT PROGRAM ON PARENT EDUCATION TO PROMOTE EARLY CHILDHOOD EDUCATION FOR DEPENDENT CHILDREN AFFECTED BY MILITARY DEPLOYMENT OR RELOCATION OF MILITARY UNITS.

(a) **PILOT PROGRAM AUTHORIZED.**—Using such funds as may be appropriated for this purpose, the Secretary of Defense may carry out a pilot program on the provision of educational and support tools to the parents of preschool-age children—

(1) whose parent or parents serve as members of the Armed Forces on active duty (including members of the Selected Reserve on active duty pursuant to a call or order to active duty of 180 days or more); and

(2) who are affected by the deployment of their parent or parents or the relocation of the military unit of which their parent or parents are a member.

(b) **PURPOSE.**—The purpose of the pilot program is to develop models for improving the capability of military child and youth programs on or near military installations to provide assistance to military parents with young children through a program of activities focusing on the unique needs of children described in subsection (a).

(c) **LIMITS ON COMMENCEMENT AND DURATION OF PROGRAM.**—The Secretary of Defense may not commence the pilot program before October 1, 2007, and shall conclude the pilot program not later than the end of the three-year period beginning on the date on which the Secretary commences the program.

(d) **SCOPE OF PROGRAM.**—Under the pilot program, the Secretary of Defense shall utilize one or more models, demonstrated through research, of universal access of parents of children described in subsection (a) to assistance under the pilot program to achieve the following goals:

(1) The identification and mitigation of specific risk factors for such children related to military life.

(2) The maximization of the educational readiness of such children.

(e) **LOCATIONS AND GOALS.**—

(1) **SELECTION OF PARTICIPATING INSTALLATIONS.**—In selecting military installations to participate in the pilot program, the Secretary of Defense shall limit selection to those military installations whose military personnel are experiencing significant transition or deployment or which are undergoing transition as a result of the relocation or activation of military units or activities relating to defense base closure and realignment.

(2) SELECTION OF CERTAIN INSTALLATIONS.—At least one of the installations selected under paragraph (1) shall be a military installation that will permit, under the pilot program, the meaningful evaluation of a model under subsection (d) that provides outreach to parents in families with a parent who is a member of the National Guard or Reserve, which families live more than 40 miles from the installation.

(3) GOALS OF PARTICIPATING INSTALLATIONS.—If a military installation is selected under paragraph (1), the Secretary shall require appropriate personnel at the military installation to develop goals, and specific outcome measures with respect to such goals, for the conduct of the pilot program at the installation.

(4) EVALUATION REQUIRED.—Upon completion of the pilot program at a military installation, the personnel referred to in paragraph (3) at the installation shall be required to conduct an evaluation and assessment of the success of the pilot program at the installation in meeting the goals developed for that installation.

(f) GUIDELINES.—As part of conducting the pilot program, the Secretary of Defense shall issue guidelines regarding—

(1) the goals to be developed under subsection (e)(3);

(2) specific outcome measures; and

(3) the selection of curriculum and the conduct of developmental screening under the pilot program.

(g) REPORT.—Upon completion of the pilot program, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on all of the evaluations prepared under subsection (e)(4) for the military installations participating in the pilot program. The report shall describe the results of the evaluations, and may include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the evaluations, including recommendations for the continuation of the pilot program.

c. National Defense Authorization Act for Fiscal Year 2006

(Public Law 109-163, approved Jan. 6, 2006)

[As Amended Through P.L. ???-???, Enacted ???]

[Checking P.L. 111-84, Enacted October 28, 2009]

TITLE V—MILITARY PERSONNEL POLICY

* * * * *

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

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SEC. 572. [20 U.S.C. 7703b] ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—

(1) **ASSISTANCE AUTHORIZED.**—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) **ELIGIBLE LOCAL EDUCATIONAL AGENCIES.**—A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—

(1) **ASSISTANCE AUTHORIZED.**—To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) **ELIGIBLE LOCAL EDUCATIONAL AGENCIES.**—A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

- (i) The global rebasing plan of the Department of Defense.
 - (ii) The official creation or activation of one or more new military units.
 - (iii) The realignment of forces as a result of the base closure process.
 - (iv) A change in the number of housing units on a military installation.
- (3) CALCULATION OF AMOUNT OF ASSISTANCE.—
- (A) PRO RATA DISTRIBUTION.—The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—
- (i) the per-student rate determined under subparagraph (B) for that fiscal year; by
 - (ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).
- (B) PER-STUDENT RATE.—For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—
- (i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by
 - (ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.
- (C) MAXIMUM AMOUNT OF ASSISTANCE.—A local educational agency may not receive more than \$1,000,000 in assistance under this subsection for any fiscal year.
- (4) DURATION.—Assistance may not be provided under this subsection after September 30, 2012.
- (c) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—
- (1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) or both subsections; and
 - (2) the amount of the assistance for which the local educational agency is eligible.
- (d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.
- (e) FINDING FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) \$30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a); and

(2) \$10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b).

(f) DEFINITIONS.—In this section:

(1) The term “base closure process” means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term “military dependent students” refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term “State” means each of the 50 States and the District of Columbia.

(g) REPEAL OF FORMER AUTHORITY.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note) is repealed.

SEC. 573. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

SEC. 574. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for school year 2005–2006, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (20 U.S.C. 7713(5))), is not eligible to be so counted.

(b) **TERMINATION.**—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

d. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

(as enacted into law by Public Law 106–398, approved Oct. 30, 2000)

TITLE III—OPERATION AND MAINTENANCE

* * * * *

Subtitle F—Defense Dependents Education

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SEC. 363. [20 U.S.C. 7703a] IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

(a) **PAYMENTS.**—Subject to subsection (f), the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)) that serves two or more such children with severe disabilities, for costs incurred in providing a free appropriate public education to each such child.

(b) **PAYMENT AMOUNT.**—The amount of the payment under subsection (a) to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

(1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less

(2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

(c) **EXCLUSIONS.**—No payment shall be made under subsection (a) on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local edu-

educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

(d) RATABLE REDUCTION.—If the amount available for a fiscal year for payments under subsection (a) is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

(e) REPORT.—Each local educational agency desiring a payment under subsection (a) shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

(f) PAYMENTS SUBJECT TO APPROPRIATION.—Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

(g) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 364. ASSISTANCE FOR MAINTENANCE, REPAIR, AND RENOVATION OF SCHOOL FACILITIES THAT SERVE DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) REPAIR AND RENOVATION ASSISTANCE.—(1) During fiscal year 2001, the Secretary of Defense may make a grant to an eligible local educational agency to assist the agency to repair and renovate—

(A) an impacted school facility that is used by significant numbers of military dependent students; or

(B) a school facility that was a former Department of Defense domestic dependent elementary or secondary school.

(2) Authorized repair and renovation projects may include repairs and improvements to an impacted school facility (including the grounds of the facility) designed to ensure compliance with the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or local health and safety ordinances, to meet classroom size requirements, or to accommodate school population increases.

(3) The total amount of assistance provided under this subsection to an eligible local educational agency may not exceed \$2,500,000 during fiscal year 2001.

(b) MAINTENANCE ASSISTANCE.—(1) During fiscal year 2001, the Secretary of Defense may make a grant to an eligible local educational agency whose boundaries are the same as a military in-

stallation to assist the agency to maintain an impacted school facility, including the grounds of such a facility.

(2) The total amount of assistance provided under this subsection to an eligible local educational agency may not exceed \$250,000 during fiscal year 2001.

(c) DETERMINATION OF ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—(1) A local educational agency is an eligible local educational agency under this section only if the Secretary of Defense determines that the local educational agency has—

- (A) one or more federally impacted school facilities; and
- (B) satisfies at least one of the following eligibility requirements:

- (i) The local educational agency is eligible to receive assistance under subsection (f) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) and at least 10 percent of the students who were in average daily attendance in the schools of such agency during the preceding school year were students described under paragraph (1)(A) or (1)(B) of section 8003(a) of the Elementary and Secondary Education Act of 1965.

- (ii) At least 35 percent of the students who were in average daily attendance in the schools of the local educational agency during the preceding school year were students described under paragraph (1)(A) or (1)(B) of section 8003(a) of the Elementary and Secondary Education Act of 1965.

- (iii) The State education system and the local educational agency are one and the same.

(2) A local educational agency is also an eligible local educational agency under this section if the local educational agency has a school facility that was a former Department of Defense domestic dependent elementary or secondary school, but assistance provided under subsection (a) may only be used to repair and renovate that specific facility.

(d) NOTIFICATION OF ELIGIBILITY.—Not later than April 30, 2001, the Secretary of Defense shall notify each local educational agency identified under subsection (c) that the local educational agency is eligible to apply for a grant under subsection (a), subsection (b), or both subsections.

(e) RELATION TO IMPACT AID CONSTRUCTION ASSISTANCE.—A local education agency that receives a grant under subsection (a) to repair and renovate a school facility may not also receive a payment for school construction under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for fiscal year 2001.

(f) GRANT CONSIDERATIONS.—In determining which eligible local educational agencies will receive a grant under this section, the Secretary of Defense shall take into consideration the following conditions and needs at impacted school facilities of eligible local educational agencies:

- (1) The repair or renovation of facilities is needed to meet State mandated class size requirements, including student-teacher ratios and instructional space size requirements.

(2) There is an increase in the number of military dependent students in facilities of the agency due to increases in unit strength as part of military readiness.

(3) There are unhoused students on a military installation due to other strength adjustments at military installations.

(4) The repair or renovation of facilities is needed to address any of the following conditions:

(A) The condition of the facility poses a threat to the safety and well-being of students.

(B) The requirements of the Americans with Disabilities Act of 1990.

(C) The cost associated with asbestos removal, energy conservation, or technology upgrades.

(D) Overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment.

(5) The repair or renovation of facilities is needed to meet any other Federal or State mandate.

(6) The number of military dependent students as a percentage of the total student population in the particular school facility.

(7) The age of facility to be repaired or renovated.

(g) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(2) IMPACTED SCHOOL FACILITY.—The term “impacted school facility” means a facility of a local educational agency—

(A) that is used to provide elementary or secondary education at or near a military installation; and

(B) at which the average annual enrollment of military dependent students is a high percentage of the total student enrollment at the facility, as determined by the Secretary of Defense.

(3) MILITARY DEPENDENT STUDENTS.—The term “military dependent students” means students who are dependents of members of the armed forces or Department of Defense civilian employees.

(4) MILITARY INSTALLATION.—The term “military installation” has the meaning given that term in section 2687(e) of title 10, United States Code.

(h) FUNDING SOURCE.—The amount authorized to be appropriated under section 301(25) for Quality of Life Enhancements, Defense-Wide, shall be available to the Secretary of Defense to make grants under this section.

4. COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

Section 612 of the Department of Defense Authorization Act, 1987

(Public Law 99-661; approved Nov. 14, 1986)

SEC. 612. [10 U.S.C. 113 note] COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.

5. REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL**Section 637 of the National Defense Authorization Act for Fiscal Years 1988 and 1989**

(Public Law 100-180, approved Dec. 4, 1987)

SEC. 637. [10 U.S.C. 113 note] REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Not later than 60 days after the date of the enactment of this Act [Dec. 4, 1987], the Secretary of Defense shall prescribe regulations to establish the policy that—

(1) the decision by a spouse of a member of the Armed Forces to be employed or to voluntarily participate in activities relating to the Armed Forces should not be influenced by the preferences or requirements of the Armed Forces; and

(2) neither such decision nor the marital status of a member of the Armed Forces should have an effect on the assignment or promotion opportunities of the member.

6. PREVENTION OF DOMESTIC VIOLENCE**a. Section 534 of the National Defense Authorization Act for Fiscal Year 1995**

(Public Law 103-337, approved Oct. 5, 1994)

SEC. 534. [10 U.S.C. 113 note] VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE.

(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

(2) Programs referred to in paragraph (1) are the following:

- (A) Victim and witness assistance programs.
- (B) Family advocacy programs.
- (C) Equal opportunity programs.
- (3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.
- (b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:
- (1) Crime.
- (2) Intrafamilial sexual, physical, or emotional abuse.
- (3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.
- (c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.
- (2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.
- (d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.
- (2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.
- (e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.
- (f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act.
- (g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and

House of Representatives a report on the implementation (and plans for implementation) of this section.

b. Subtitle K of title V of the National Defense Authorization Act for Fiscal Year 2000

(Public Law 106–65, approved Oct. 5, 1997)

Subtitle K—Domestic Violence

SEC. 591. [10 U.S.C. 1562 note] DEFENSE TASK FORCE ON DOMESTIC VIOLENCE.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Department of Defense task force to be known as the Defense Task Force on Domestic Violence.

(b) STRATEGIC PLAN.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary of Defense a long-term plan (referred to as a “strategic plan”) for means by which the Department of Defense may address matters relating to domestic violence within the military more effectively. The plan shall include an assessment of, and recommendations for measures to improve, the following:

- (1) Ongoing victims’ safety programs.
- (2) Offender accountability.
- (3) The climate for effective prevention of domestic violence.
- (4) Coordination and collaboration among all military organizations with responsibility or jurisdiction with respect to domestic violence.
- (5) Coordination between military and civilian communities with respect to domestic violence.
- (6) Research priorities.
- (7) Data collection and case management and tracking.
- (8) Curricula and training for military commanders.
- (9) Prevention and responses to domestic violence at overseas military installations.
- (10) Other issues identified by the task force relating to domestic violence within the military.

(c) REVIEW OF VICTIMS’ SAFETY PROGRAM.—The task force shall review the efforts of the Secretary of Defense to establish a program for improving responses to domestic violence under section 592 and shall include in its report under subsection (e) a description of that program, including best practices identified on installations, lessons learned, and resulting policy recommendations.

(d) OTHER TASK FORCE REVIEWS.—The task force shall review and make recommendations regarding the following:

- (1) Standard guidelines to be used by the Secretaries of the military departments in negotiating agreements with civilian law enforcement authorities relating to acts of domestic violence involving members of the Armed Forces.
- (2) A requirement (A) that when a commanding officer issues to a member of the Armed Forces under that officer’s command an order that the member not have contact with a

specified person that a written copy of that order be provided within 24 hours after the issuance of the order to the person with whom the member is ordered not to have contact, and (B) that there be a system of recording and tracking such orders.

(3) Standard guidelines on the factors for commanders to consider when seeking to substantiate allegations of domestic violence by a person subject to the Uniform Code of Military Justice and when determining appropriate action for such allegations that are so substantiated.

(4) A standard training program for all commanding officers in the Armed Forces, including a standard curriculum, on the handling of domestic violence cases.

(e) ANNUAL REPORT.—(1) The task force shall submit to the Secretary an annual report on its activities and on the activities of the military departments to respond to domestic violence in the military.

(2) The first such report shall be submitted not later than the date specified in subsection (b) and shall be submitted with the strategic plan submitted under that subsection. The task force shall include in that report the following:

(A) Analysis and oversight of the efforts of the military departments to respond to domestic violence in the military and a description of barriers to implementation of improvements in those efforts.

(B) A description of the activities and achievements of the task force.

(C) A description of successful and unsuccessful programs.

(D) A description of pending, completed, and recommended Department of Defense research relating to domestic violence.

(E) Such recommendations for policy and statutory changes as the task force considers appropriate.

(3) Each subsequent annual report shall include the following:

(A) A detailed discussion of the achievements in responses to domestic violence in the Armed Forces.

(B) Pending research on domestic violence.

(C) Any recommendations for actions to improve the responses of the Armed Forces to domestic violence in the Armed Forces that the task force considers appropriate.

(4) Within 90 days of receipt of a report under paragraph (2) or (3), the Secretary shall submit the report and the Secretary's evaluation of the report to the Committees on Armed Services of the Senate and House of Representatives. The Secretary shall include with the report the information collected pursuant to section 1562(b) of title 10, United States Code, as added by section 594.

(f) MEMBERSHIP.—(1) The task force shall consist of not more than 24 members, to be appointed by the Secretary of Defense. Members shall be appointed from each of the Army, Navy, Air Force, and Marine Corps and shall include an equal number of Department of Defense personnel (military or civilian) and persons from outside the Department of Defense. Members appointed from outside the Department of Defense may be appointed from other Federal departments and agencies, from State and local agencies, or from the private sector.

(2) The Secretary shall ensure that the membership of the task force includes a judge advocate representative from each of the Army, Navy, Air Force, and Marine Corps.

(3)(A) In consultation with the Attorney General, the Secretary shall appoint to the task force a representative or representatives from the Office of Justice Programs of the Department of Justice.

(B) In consultation with the Secretary of Health and Human Services, the Secretary shall appoint to the task force a representative from the Family Violence Prevention and Services office of the Department of Health and Human Services.

(4) Each member of the task force appointed from outside the Department of Defense shall be an individual who has demonstrated expertise in the area of domestic violence or shall be appointed from one of the following:

(A) A national domestic violence resource center established under section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407).

(B) A national sexual assault and domestic violence policy and advocacy organization.

(C) A State domestic violence and sexual assault coalition.

(D) A civilian law enforcement agency.

(E) A national judicial policy organization.

(F) A State judicial authority.

(G) A national crime victim policy organization.

(5) The members of the task force shall be appointed not later than 90 days after the date of the enactment of this Act.

(g) CO-CHAIRS OF THE TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of Defense at the time of appointment from among the Department of Defense personnel on the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by those members.

(h) ADMINISTRATIVE SUPPORT.—(1) Each member of the task force who is a member of the Armed Forces or civilian officer or employee of the United States shall serve without compensation (other than the compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.

(2) The Assistant Secretary of Defense for Force Management Policy, under the direction of the Under Secretary of Defense for Personnel and Readiness, shall provide oversight of the task force. The Washington Headquarters Service shall provide the task force with the personnel, facilities, and other administrative support that is necessary for the performance of the task force's duties.

(3) The Assistant Secretary shall coordinate with the Secretaries of the military departments to provide visits of the task force to military installations.

(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App) shall not apply to the task force.

(j) TERMINATION.—The task force shall terminate on April 24, 2003.

SEC. 592. [10 U.S.C. 1562 note] INCENTIVE PROGRAM FOR IMPROVING RESPONSES TO DOMESTIC VIOLENCE INVOLVING MEMBERS OF THE ARMED FORCES AND MILITARY FAMILY MEMBERS.

(a) **PURPOSE.**—The purpose of this section is to provide a program for the establishment on military installations of collaborative projects involving appropriate elements of the Armed Forces and the civilian community to improve, strengthen, or coordinate prevention and response efforts to domestic violence involving members of the Armed Forces, military family members, and others.

(b) **PROGRAM.**—The Secretary of Defense shall establish a program to provide funds and other incentives to commanders of military installations for the following purposes:

(1) To improve coordination between military and civilian law enforcement authorities in policies, training, and responses to, and tracking of, cases involving military domestic violence.

(2) To develop, implement, and coordinate with appropriate civilian authorities tracking systems (A) for protective orders issued to or on behalf of members of the Armed Forces by civilian courts, and (B) for orders issued by military commanders to members of the Armed Forces ordering them not to have contact with a dependent.

(3) To strengthen the capacity of attorneys and other legal advocates to respond appropriately to victims of military domestic violence.

(4) To assist in educating judges, prosecutors, and legal offices in improved handling of military domestic violence cases.

(5) To develop and implement more effective policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to domestic violence.

(6) To develop, enlarge, or strengthen victims' services programs, including sexual assault and domestic violence programs, developing or improving delivery of victims' services, and providing confidential access to specialized victims' advocates.

(7) To develop and implement primary prevention programs.

(8) To improve the response of health care providers to incidents of domestic violence, including the development and implementation of screening protocols.

(c) **PRIORITY.**—The Secretary shall give priority in providing funds and other incentives under the program to installations at which the local program will emphasize building or strengthening partnerships and collaboration among military organizations such as family advocacy program, military police or provost marshal organizations, judge advocate organizations, legal offices, health affairs offices, and other installation-level military commands between those organizations and appropriate civilian organizations, including civilian law enforcement, domestic violence advocacy organizations, and domestic violence shelters.

(d) **APPLICATIONS.**—The Secretary shall establish guidelines for applications for an award of funds under the program to carry out the program at an installation.

(e) AWARDS.—The Secretary shall determine the award of funds and incentives under this section. In making a determination of the installations to which funds or other incentives are to be provided under the program, the Secretary shall consult with an award review committee consisting of representatives from the Armed Forces, the Department of Justice, the Department of Health and Human Services, and organizations with a demonstrated expertise in the areas of domestic violence and victims' safety.

SEC. 593. [10 U.S.C. 1562 note] UNIFORM DEPARTMENT OF DEFENSE POLICIES FOR RESPONSES TO DOMESTIC VIOLENCE.

(a) REQUIREMENT.—The Secretary of Defense shall prescribe the following:

(1) Standard guidelines to be used by the Secretaries of the military departments for negotiating agreements with civilian law enforcement authorities relating to acts of domestic violence involving members of the Armed Forces.

(2) A requirement (A) that when a commanding officer issues to a member of the Armed Forces under that officer's command an order that the member not have contact with a specified person that a written copy of that order be provided within 24 hours after the issuance of the order to the person with whom the member is ordered not to have contact, and (B) that there be a system of recording and tracking such orders.

(3) Standard guidelines on the factors for commanders to consider when seeking to substantiate allegations of domestic violence by a person subject to the Uniform Code of Military Justice and when determining appropriate action for such allegations that are so substantiated.

(4) A standard training program for all commanding officers in the Armed Forces, including a standard curriculum, on the handling of domestic violence cases.

(b) DEADLINE.—The Secretary of Defense shall carry out subsection (a) not later than six months after the date on which the Secretary receives the first report of the Defense Task Force on Domestic Violence under section 591(e).

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c. Subtitle K of title V of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Public Law 108–375, approved Oct. 28, 2004)

[As Amended Through P.L. 111–84, Enacted October 28, 2009]

Subtitle K—Sexual Assault in the Armed Forces

SEC. 576. [10 U.S.C. 4331 note] EXAMINATION OF SEXUAL ASSAULT IN THE ARMED FORCES BY THE DEFENSE TASK FORCE ESTABLISHED TO EXAMINE SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for

Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(3) Before the task force extended under this subsection begins to carry out the functions specified in this section, the Secretary of Defense may, consistent with the qualifications required by section 526(f) of Public Law 108–136, change the composition of the task force as the Secretary considers appropriate for the effective performance of such functions, except that—

(A) any change initiated by the Secretary in the membership of the task force under this paragraph may not take effect before the task force has completed its functions under section 526 of Public Law 108–136; and

(B) the total number of members of the task force may not exceed 14.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES.—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

- (1) Victim care and advocacy programs.
- (2) Effective prevention.
- (3) Collaboration among military investigative organizations with responsibility or jurisdiction.
- (4) Coordination and resource sharing between military and civilian communities, including local support organizations.
- (5) Reporting procedures, data collection, tracking of cases, and use of data on sexual assault by senior military and civilian leaders.
- (6) Oversight of sexual assault programs, including development of measures of the effectiveness of those programs in responding to victim needs.
- (7) Military justice issues.

(8) Progress in developing means to investigate and prosecute assailants who are foreign nationals.

(9) Adequacy of resources supporting sexual assault prevention and victim advocacy programs, particularly for deployed units and personnel.

(10) Training of military and civilian personnel responsible for implementation of sexual assault policies.

(11) Programs and policies, including those related to confidentiality, designed to encourage victims to seek services and report offenses.

(12) Other issues identified by the task force relating to sexual assault.

(d) **METHODOLOGY.**—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) **REPORT.**—(1) Not later than December 1, 2009, the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) **TERMINATION.**—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

SEC. 577. [10 U.S.C. 113 note] DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) **COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.**—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(3) Before developing the comprehensive policy required by paragraph (1), the Secretary of Defense shall develop a definition of sexual assault. The definition so developed shall be used in the comprehensive policy under paragraph (1) and otherwise within the Department of Defense and Coast Guard in matters involving members of the Armed Forces. The definition shall be uniform for all the Armed Forces and shall be developed in consultation with the Secretaries of the military departments and the Secretary of Homeland Security with respect to the Coast Guard.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The comprehensive policy developed under subsection (a) shall, at a minimum, address the following matters:

- (1) Prevention measures.
- (2) Education and training on prevention and response.
- (3) Investigation of complaints by command and law enforcement personnel.
- (4) Medical treatment of victims.
- (5) Confidential reporting of incidents.
- (6) Victim advocacy and intervention.
- (7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.
- (8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.
- (9) Disposition of members of the Armed Forces accused of sexual assault.
- (10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.
- (11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.
- (12) The Secretary shall implement clear, consistent, and streamlined sexual assault terminology for use throughout the Department of Defense.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

- (A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

(f) ANNUAL REPORT ON SEXUAL ASSAULTS.—(1) Not later than January 15 of each year, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.

(2) Each report on an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported that were substantiated.

(B) A synopsis of each such substantiated case and, for each such case, the disciplinary action taken in the case, including the type of disciplinary or administrative sanction imposed, if any.

(C) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Armed Force concerned.

(D) A description of the implementation during the year covered by the report of the tracking system implemented pursuant to section 596(a) of the National Defense Authorization Act for Fiscal Year 2006, including information collected on cases during that year in which care to a victim of rape or sexual assault was hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

(E) A description of the implementation during the year covered by the report of the accessibility plan implemented pursuant to section 596(b) of the National Defense Authorization Act for Fiscal Year 2006, including a description of the steps taken during that year to provide that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.

(F) A description of the required supply inventory, location, accessibility, and availability of supplies, trained personnel, and transportation resources needed, and in fact in place, in order to be able to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.

(G) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.

(3) Each report under paragraph (1) for any year after 2005 shall include an assessment by the Secretary of the military department submitting the report of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.

(4) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on the report. The Secretary shall submit each such report not later than March 15 of the year following the year covered by the report.

(5) For the report under this subsection covering 2004, the applicable date under paragraph (1) is April 1, 2005, and the applicable date under paragraph (4) is May 1, 2005.

d. Improvement to Department of Defense Capacity to Respond to Sexual Assault Affecting Members of the Armed Forces

Section 596 of the National Defense Authorization Act for Fiscal Year 2006

(Public Law 109-163, approved Jan. 6, 2006)

SEC. 596. [10 U.S.C. 113 note] IMPROVEMENT TO DEPARTMENT OF DEFENSE CAPACITY TO RESPOND TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES.

(a) **PLAN FOR SYSTEM TO TRACK CASES IN WHICH CARE OR PROSECUTION HINDERED BY LACK OF AVAILABILITY.—**

(1) **PLAN REQUIRED.—**The Secretary of Defense shall develop and implement a system to track cases under the jurisdiction of the Department of Defense in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator of rape or sexual assault, is hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

(2) **SUBMITTAL TO CONGRESSIONAL COMMITTEES.—**The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(b) **ACCESSIBILITY PLAN FOR DEPLOYED UNITS.—**

(1) **PLAN REQUIRED.—**The Secretary of Defense shall develop and implement a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. The plan shall include the following:

(A) A plan for the training of personnel who are considered to be “first responders” to sexual assaults (including criminal investigators, medical personnel responsible for rape kit evidence collection, and victims advocates), such training to include current techniques on the processing of evidence, including rape kits, and on conducting investigations.

(B) A plan for ensuring the availability at military hospitals of supplies needed for the treatment of victims of sexual assault who present at a military hospital, including rape kits, equipment for processing rape kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and for testing for pregnancy.

(2) **SUBMITTAL TO CONGRESSIONAL COMMITTEES.—**The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) **ADDITIONAL MATTERS FOR ANNUAL REPORT ON SEXUAL ASSAULTS.—**[Omitted-Amendment]

7. CHILD SUPPORT AND ALIMONY OBLIGATIONS

a. Section 363 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

(Public Law 104–193, approved Aug. 22, 1996)

SEC. 363. [10 U.S.C. 113 note] ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Homeland Security, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term “court” has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term “child support” has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—[Omitted-Amendments]

b. Section 1061 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

(Public Law 105–261, approved Oct. 17, 1998)

SEC. 1061. [5 U.S.C. 5520a note] PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 459 of the Social Security Act (42 U.S.C. 659).

(b) PURPOSE.—The purpose of the pilot program is to test the efficacy of providing notice in accordance with subsection (c) to the person whose pay is to be withheld or garnished.

(c) AUTHORIZATION OF ALTERNATIVE TO PROVIDING COPY OF NOTICE OR SERVICE RECEIVED BY THE SECRETARY.—(1) Under the pilot program, whenever the Secretary of Defense (acting through the DOD section 459 agent) provides a section 459 notice to an individual, the Secretary may include as part of that notice the information specified in subsection (e) in lieu of sending with that notice a copy (otherwise required pursuant to the parenthetical phrase in section 459(c)(2)(A) of the Social Security Act) of the notice or service received by the DOD section 459 agent with respect to that individual’s child support or alimony payment obligations.

(2) Under the pilot program, whenever the Secretary of Defense (acting through the DOD section 5520a agent) provides a section 5520a notice to an individual, the Secretary may include as part of that notice the information specified in subsection (e) in lieu of sending with that notice a copy (otherwise required pursuant to

the second parenthetical phrase in section 5520a(c) of title 5, United States Code) of the legal process received by the DOD section 5520a agent with respect to that individual.

(d) DEFINITIONS.—For purposes of this section:

(1) DOD SECTION 459 AGENT.—The term “DOD section 459 agent” means the agent or agents designated by the Secretary of Defense under subsection (c)(1)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to receive orders and accept service of process in matters related to child support or alimony.

(2) SECTION 459 NOTICE.—The term “section 459 notice” means, with respect to the Department of Defense, the notice required by subsection (c)(2)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to be sent to an individual in writing upon the receipt by the DOD section 459 agent of notice or service with respect to the individual’s child support or alimony payment obligations.

(3) DOD SECTION 5520A AGENT.—The term “DOD section 5520a agent” means a person who is designated by law or regulation to accept service of process to which the Department of Defense is subject under section 5520a of title 5, United States Code (including the regulations promulgated under subsection (k) of that section).

(4) SECTION 5520A NOTICE.—The term “section 5520a notice” means, with respect to the Department of Defense, the notice required by subsection (c) of section 5520a of title 5, United States Code, to be sent in writing to an employee (or, pursuant to the regulations promulgated under subsection (k) of that section, to a member of the Armed Forces) upon the receipt by the DOD section 5520a agent of legal process covered by that section.

(e) ALTERNATIVE REQUIREMENTS.—The information referred to in subsection (c) that is to be included as part of a section 459 notice or section 5520a notice sent to an individual (in lieu of sending with that notice a copy of the notice or service received by the DOD section 459 agent or the DOD section 5520a agent) is the following:

(1) A description of the pertinent court order, notice to withhold, or other order, process, or interrogatory received by the DOD section 459 agent or the DOD section 5520a agent.

(2) The identity of the court or judicial forum involved and (in the case of a notice or process concerning the ordering of a support or alimony obligation) the case number, the amount of the obligation, and the name of the beneficiary.

(3) Information on how the individual may obtain from the Department of Defense a copy of the notice, service, or legal process, including an address and telephone number that the individual may be contacted for the purpose of obtaining such a copy.

(f) PERIOD OF PILOT PROGRAM.—The Secretary shall commence the pilot program not later than 90 days after the date of the enactment of this Act. The pilot program shall terminate on September 30, 2001.

(g) REPORT.—Not later than January 1, 2001, the Secretary shall submit to Congress a report describing the experience of the

Department of Defense under the authority provided by this section. The report shall include the following:

(1) The number of section 459 notices provided by the DOD section 459 agent during the period the authority provided by this section was in effect.

(2) The number of individuals who requested the DOD section 459 agent to provide to them a copy of the actual notice or service.

(3) Any complaint the Secretary received by reason of not having provided the actual notice or service in the section 459 notice.

(4) The number of section 5520a notices provided by the DOD section 5520a agent during the period the authority provided by this section was in effect.

(5) The number of individuals who requested the DOD section 5520a agent to provide to them a copy of the actual legal process.

(6) Any complaint the Secretary received by reason of not having provided the actual legal process in the section 5520a notice.
