

CHAPTER 1072

PUBLIC DEFENSE AND MILITARY AFFAIRS

S.F. 2097

AN ACT relating to the department of public defense by making changes regarding the Iowa military code and military service, including terminology modifications and leases entered into by the department of public defense and the armory board, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8A.321, subsection 6, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* This subsection shall not apply to the department of public defense or the armory board.

Sec. 2. Section 8A.327, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A rent revolving fund is created in the state treasury under the control of the department to be used by the department to pay the lease or rental costs of all buildings and office space necessary for the proper functioning of any state agency, except the department of public defense or the armory board, wherever located throughout the state as provided in section 8A.321, subsection 6, except that this fund shall not be used to pay the rental or lease costs of a state agency which has not received funds budgeted for rental or lease purposes.

Sec. 3. Section 8A.402, subsection 2, paragraph f, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Develop, in consultation with the department of veterans affairs, programs to inform state employees who are members of the national guard or organized reserves of the armed forces of the United States, and their families, of their rights and benefits while the member is deployed in active federal service active duty.

(2) Develop, in consultation with the department of veterans affairs and the department of workforce development, programs to inform members of the national guard or organized reserves of the armed forces of the United States returning to Iowa following active federal service active duty about job opportunities in state government.

Sec. 4. Section 8A.402, subsection 2, paragraph f, subparagraph (3), subparagraph division (a), Code 2011, is amended to read as follows:

(a) Programs to inform disabled veterans returning to the state after active federal service active duty about federally funded job training opportunities in state government, pursuant to 38 U.S.C. ch. 31.

Sec. 5. Section 16.54, subsection 1, Code 2011, is amended to read as follows:

1. For the purposes of this section, "*eligible member of the armed forces of the United States*" means a person who is or was a member of the national guard, reserve, or regular component of the armed forces of the United States who has served at least ninety days of active duty service beginning on or after September 11, 2001. "*Eligible member of the armed forces of the United States*" also means a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service active duty beginning on or after September 11, 2001, that precluded completion of a minimum aggregate of ninety days of active federal service active duty.

Sec. 6. Section 29A.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Federal service active duty*" means full-time duty in the active military service of the United States authorized and performed under the provisions of Tit. 10 U.S.C. as part of the active military forces of the United States or the army national guard of the United States or the air national guard of the United States Code.

Sec. 7. Section 29A.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. “*National guard duty*” means training or other duty authorized and performed under the provisions of 32 U.S.C. including but not limited to 32 U.S.C. § 316, 32 U.S.C. §§ 502 – 505, and 32 U.S.C. § 709 as part of the national guard and paid for with federal funds. “*National guard duty*” includes but is not limited to full-time national guard duty and inactive duty training and annual training.

Sec. 8. Section 29A.1, subsection 9, Code 2011, is amended to read as follows:

9. “*On duty*” means training, including unit training assemblies, and other training, operational duty, and other service which may be required under state or federal law, regulations, or orders, and the necessary travel of an officer or enlisted person to the place of performance and return home after performance of that duty, but does not include federal service active duty. A member of the national guard shall be considered to be on duty when called to testify about an incident which the member observed or was involved in while that member was on duty.

Sec. 9. Section 29A.1, subsection 12, Code 2011, is amended by striking the subsection.

Sec. 10. Section 29A.7, subsections 1 and 2, Code 2011, are amended to read as follows:

1. The governor is the commander in chief of the military forces, except when they are in on federal service active duty. The governor may employ the military forces of the state for the defense of the state, to provide assistance to civil authorities in emergencies resulting from disasters or public disorders as defined in section 29C.2, including homeland security and defense duties, and for parades and ceremonies of a civic nature.

2. The governor shall provide for the participation of the national guard in training at the times and places as necessary to ensure readiness for public defense or federal service active duty.

Sec. 11. Section 29A.8A, Code 2011, is amended to read as follows:

29A.8A State military service National guard duty.

1. If federal funding and authorization exist for ~~this the purpose identified by the governor,~~ the governor may order to ~~state military service~~ national guard duty the military forces of the ~~Iowa army national guard or Iowa air national guard~~ as the governor may deem appropriate for the purposes of ~~homeland security, homeland defense, or other duty.~~

2. A state employee shall take either a full day’s leave in accordance with section 29A.28 or eight hours of compensatory time on a day in which the state employee receives a full day’s pay from federal funds for ~~state military service~~ national guard duty.

3. When performing ~~state military service~~ national guard duty, the adjutant general, a deputy adjutant general, or the state quartermaster shall not be considered a state employee, except for purposes of the Iowa public employees’ retirement system, state health and dental plans, and other state employee benefits plans.

Sec. 12. Section 29A.15, Code 2011, is amended to read as follows:

29A.15 State awards and decorations.

The adjutant general, from the funds appropriated for the support and maintenance of the national guard, shall procure and issue to the members of the national guard merit or service badges or other appropriate awards for service under regulations and according to the design and pattern determined by the adjutant general. Members of the national guard who, by order of the president, serve in federal forces during national emergency, may count the period of that federal service active duty toward the procurement of a service badge.

Sec. 13. Section 29A.19, Code Supplement 2011, is amended to read as follows:

29A.19 Quartermaster.

A present or retired member of the national guard who has ten years’ service in the ~~Iowa army national guard or the Iowa air national guard~~ shall be detailed to be the quartermaster and ~~property officer of the state, who shall have charge of and be accountable~~ responsible for, under the adjutant general, all state military property and facilities. ~~The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor~~

~~may direct.~~

Sec. 14. Section 29A.27, subsections 1 and 3, Code Supplement 2011, are amended to read as follows:

1. Officers and enlisted persons while in state active duty shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for federal ~~service~~ active duty. However, a person shall not be paid at a base rate of pay of less than one hundred dollars per calendar day of state active duty.

3. Where the provisions of this section may be applicable or at other times as considered necessary, ~~but at least once a year~~, the adjutant general shall appoint a state review board consisting of three officers, one of whom shall be a medical officer, for the purpose of determining the continuation of benefits for individuals who have established their eligibility under this section. Once established, benefits shall be paid until terminated by the review board and shall continue for the duration of the disability even though the individual may no longer be medically qualified for military service and may have been discharged from the national guard.

Sec. 15. Section 29A.28, subsections 1 and 3, Code 2011, are amended to read as follows:

1. a. All officers and employees of the state, a subdivision thereof, or a municipality, other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, or who are members of the civil air patrol, shall, when ordered by proper authority to state active duty, ~~state military service~~ national guard duty, or federal ~~service~~ active duty, or when performing a civil air patrol mission pursuant to section 29A.3A, be entitled to a leave of absence from such civil employment for the period of state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

b. Where state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty is for a period of less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality. The provisions of this section shall also apply to a leave of absence by a member of the national disaster medical system of the United States when activated for federal service with the system. If the workday for a civil employee encompasses more than one calendar day, the civil employee shall only be required to take a leave of absence for one day for that workday if a leave of absence is required under this paragraph.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry into state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty, or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty. Under this subsection, "position" includes the geographical location of the position.

Sec. 16. Section 29A.43, subsections 1 and 2, Code Supplement 2011, are amended to read as follows:

1. A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States or any member of the civil air patrol because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state or member of the civil air patrol, or hinder or prevent the officer or enlisted person or member of the civil air patrol from performing any military service or civil air patrol duty the person is called upon to perform by proper authority. A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty or service, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12,~~ or a

member of the civil air patrol performing duty pursuant to section 29A.3A, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment unless the employment is of a temporary nature. Upon completion of the duty or service, the employer shall restore the person to the position held prior to the leave of absence or employ the person in a position of like seniority, status, and pay. However, the person shall give evidence to the employer of satisfactory completion of the duty or service, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment.

2. An officer or enlisted person of the national guard or organized reserves of the armed forces of the United States who is insured as a dependent under a group policy for accident or health insurance as a full-time student less than twenty-five years of age, whose coverage under the group policy would otherwise terminate while the officer or enlisted person was on a leave of absence during a period of temporary duty or service, as defined for members of the national guard in section 29A.1, subsection 3, ~~7A, or 11, or 12~~, or as a member of the organized reserves called to active duty from a reserve component status, shall be considered to have been continuously insured under the group policy for the purpose of returning to the insured dependent status as a full-time student who is less than twenty-five years of age. This subsection does not apply to coverage of an injury suffered or a disease contracted by a member of the national guard or organized reserves of the armed forces of the United States in the line of duty.

Sec. 17. Section 29A.53, unnumbered paragraph 3, Code 2011, is amended to read as follows:

Officers and enlisted personnel called into federal ~~service~~ active duty through the national guard shall upon completion of such ~~service duty~~ active duty continue to serve the balance of their enlistment period the same as though it had not been interrupted by such ~~service duty~~ active duty.

Sec. 18. Section 29A.65, Code 2011, is amended to read as follows:

29A.65 Activation.

Whenever any part of the national guard is ~~in~~ on federal ~~service~~ active duty the governor may activate such part of the unorganized militia, to be designated the "Iowa State Guard", as the governor may deem necessary, subject to provisions of federal law and regulations relating to such military organizations.

Sec. 19. Section 29A.67, Code 2011, is amended to read as follows:

29A.67 Chief of staff.

In the event the state headquarters of the national guard is inducted into federal ~~service~~ active duty, the governor shall appoint a chief of staff for the Iowa state guard.

Sec. 20. Section 29A.90, subsection 3, Code 2011, is amended to read as follows:

3. "~~Military service~~" means full-time ~~state military service~~ national guard duty or state active duty, as defined in section 29A.1, for a period of at least ~~ninety~~ thirty consecutive days, commencing on or after ~~April 22, 2002~~ the effective date of this Act.

Sec. 21. Section 29B.1, Code 2011, is amended to read as follows:

29B.1 Persons subject to code.

This chapter applies to all members of the state military forces, while not ~~in~~ on federal ~~service~~ active duty. As used in this chapter, unless the context otherwise requires, "~~state military forces~~" has the same meaning as in section 29A.6, and "~~code~~" means this chapter, which may be cited as the "*Iowa Code of Military Justice*".

Sec. 22. Section 29B.13, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Under regulations as may be prescribed under this code a person subject to this code who is ~~on state military service~~ national guard duty or state active duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

Sec. 23. Section 29B.21, Code 2011, is amended to read as follows:

29B.21 Confinement instead of fine.

In the state military forces, not ~~in~~ on federal service active duty, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each three dollars of the authorized fine.

Sec. 24. Section 29B.22, unnumbered paragraph 2, Code 2011, is amended to read as follows:

The adjutant general shall designate a staff judge advocate for the army national guard and the air national guard. The adjutant general may appoint the number of judge advocates of the state military forces as the adjutant general considers necessary to perform state active duty to supplement or replace national guard judge advocates in emergencies or when the national guard judge advocates are ~~in~~ on federal service active duty.

Sec. 25. Section 29C.21, subsection 13, Code 2011, is amended to read as follows:

13. *Article XIII — Additional provisions.* Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal ~~service active duty~~ the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under 18 U.S.C. § 1385.

Sec. 26. Section 35.1, subsection 2, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) Former members of the reserve forces of the United States who served at least twenty years in the reserve forces and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of ~~active federal service~~ active duty, other than training, and was discharged under honorable conditions, or was retired under Tit. 10 of the United States Code shall be included as a veteran.

Sec. 27. Section 35.1, subsection 2, paragraph c, Code 2011, is amended to read as follows:

c. A resident of this state who served on ~~active federal service~~ active duty, other than training, in the armed forces of the United States and who was discharged under honorable conditions.

Sec. 28. Section 35.9, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. The department may expend not more than six hundred dollars per year for any one child who has lived in the state of Iowa for two years preceding application for state educational assistance, and who is the child of a person who died prior to September 11, 2001, during ~~active federal military service~~ active duty while serving in the armed forces or during ~~active federal military service~~ active duty in the Iowa national guard or other military component of the United States, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for the child or children incident to attendance in this state at an educational or training institution of college grade, or in a business or vocational training school with standards approved by the department.

Sec. 29. Section 35.9, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Upon application by a child who is less than thirty-one years of age, and who is the child of a person who died on or after September 11, 2001, during ~~active federal military service~~ active duty while serving in the armed forces or during ~~active federal military service~~ active duty in the Iowa national guard or other military component of the United States, and who at the time of entering into ~~federal active military service~~ duty had maintained the person's residence in the state for a period of at least six months immediately before entering into ~~federal active military service~~ duty, the department shall provide state educational assistance

in an amount of no more than the highest resident undergraduate tuition rate established per year for an institution of higher learning under the control of the state board of regents less the amount of any state and federal education benefits, grants, or scholarships received by the child, or the amount of the child's established financial need, whichever is less, to defray the expenses of tuition at any postsecondary educational institution in this state.

Sec. 30. Section 69.20, subsections 1 and 3, Code 2011, are amended to read as follows:

1. A temporary vacancy in an elective office of a political subdivision, community college, or hospital board of trustees of this state occurs on the date when the person filling that office is placed on ~~state military service~~ national guard duty or federal ~~service~~ active duty, as those terms are defined in section 29A.1, and when such a person will not be able to attend to the duties of that person's elective position for a period greater than sixty consecutive days. The temporary vacancy terminates on the date when such person is released from such service, or the term of office expires.

3. Upon the termination of a temporary vacancy due to a person's release from ~~state military service~~ national guard duty or federal ~~service~~ active duty, the person who held the elective office just prior to the temporary vacancy shall immediately be deemed to have been reinstated to that position and the person who filled the temporary vacancy shall immediately be deemed to have been removed from that office.

Sec. 31. Section 96.7, subsection 2, paragraph a, subparagraph (2), subparagraph division (e), subparagraph subdivision (i), Code 2011, is amended to read as follows:

(i) A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, for any purpose, who has completed the duty as evidenced in accordance with section 29A.43.

Sec. 32. Section 144.13B, Code Supplement 2011, is amended to read as follows:

144.13B Waiver of fees — military service.

Notwithstanding any provision of this chapter to the contrary, the certified copy fees for a birth certificate or death certificate of a service member who died while performing military duty, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, shall be waived for a period of one year from the date of death for a family member of the deceased service member.

Sec. 33. Section 144C.6, subsection 4, Code Supplement 2011, is amended to read as follows:

4. A declaration for disposition of remains made by a service member who died while performing military duty as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, on forms provided and authorized by the department of defense for service members for this purpose shall constitute a valid declaration of designee for purposes of this chapter.

Sec. 34. Section 260C.14, subsection 20, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Adopt a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 14, paragraph "b", subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service~~ or active duty:

Sec. 35. Section 261.9, subsection 1, paragraph g, subparagraph (1), unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Adopts a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child, of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service~~ or active duty:

Sec. 36. Section 262.9, subsection 30, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Direct the institutions of higher education under its control to adopt a policy to offer not

less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 17, paragraph “b”, subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service or active duty~~:

Sec. 37. Section 422.7, subsection 38, Code Supplement 2011, is amended to read as follows:

38. Subtract, to the extent not otherwise excluded, the amount of withdrawals from qualified retirement plan accounts made during the tax year if the taxpayer or taxpayer’s spouse is a member of the Iowa national guard or reserve forces of the United States who is ordered to ~~state military service~~ national guard duty or federal ~~service or active duty~~. In addition, a penalty for such withdrawals shall not be assessed by the state.

Sec. 38. Section 483A.24, subsection 14, Code Supplement 2011, is amended to read as follows:

14. Upon payment of the fee of five dollars for a lifetime fishing license or lifetime hunting and fishing combined license, the department shall issue a lifetime fishing license or lifetime hunting and fishing combined license to a resident of Iowa who has served in the armed forces of the United States on ~~active federal service active duty~~ and who was disabled or was a prisoner of war during that veteran’s military service. The department shall prepare an application to be used by a person requesting a lifetime fishing license or lifetime hunting and fishing combined license under this subsection. The department of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, “disabled” means entitled to a service connected rating under 38 U.S.C. ch. 11.

Sec. 39. Section 654.1A, Code 2011, is amended to read as follows:

654.1A Maintenance of mortgagor protections — discontinuation of occupation.

For purposes of sections 615.1, 615.3, 628.28, 654.2D, 654.20, 654.21, and 654.26, property shall be deemed the residence of and occupied by the mortgagor where occupation has ceased because of the effects of natural disaster, injury to the property not willfully caused by the mortgagor, or the mortgagor’s ~~state military service~~ national guard duty or federal ~~military service active duty~~ as those terms are defined in section 29A.1.

Sec. 40. Section 724.7, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The commissioner of public safety shall develop a process to allow service members deployed for military service to submit a renewal of a nonprofessional permit to carry weapons early and by mail. In addition, a permit issued to a service member who is deployed for military service, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, that would otherwise expire during the period of deployment shall remain valid for ninety days after the end of the service member’s deployment.

Sec. 41. 2011 Iowa Acts, chapter 127, section 2, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section shall not apply to leases entered into by the department of public defense or the armory board.

Sec. 42. MILITARY OCCUPATIONAL SPECIALTIES AND PROFESSIONAL CERTIFICATIONS STUDY COMMITTEE.

1. The legislative council is requested to establish a military occupational specialties and professional certifications study committee. The study committee shall assess the feasibility of allowing military occupational specialties to be counted toward professional certifications or other certifications required in Iowa for certain occupations, and shall recommend legislative or administrative rule changes relating to such requirements.

2. The study committee shall meet during the 2012 legislative interim. The study committee shall submit a report and recommendations to the general assembly by January 1, 2013.

Sec. 43. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 29A.90, subsection 3.

Approved April 12, 2012