

PUBLIC LAW 111-84—OCT. 28, 2009

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

123 STAT. 2296

Subtitle E—Missing or Deceased Persons

SEC. 541. ADDITIONAL REQUIREMENTS FOR ACCOUNTING FOR MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES LISTED AS MISSING IN CONFLICTS OCCURRING BEFORE ENACTMENT OF NEW SYSTEM FOR ACCOUNTING FOR MISSING PERSONS.

(a) IMPOSITION OF ADDITIONAL REQUIREMENTS.—Section 1509 of title 10, United States Code, is amended to read as follows:

“§ 1509. Program to resolve preenactment missing person cases

“(a) PROGRAM REQUIRED; COVERED CONFLICTS.—The Secretary of Defense shall implement a comprehensive, coordinated, integrated, and fully resourced program to account for persons described in subparagraph (A) or (B) of section 1513(1) of this title who are unaccounted for from the following conflicts:

“(1) World War II during the period beginning on December 7, 1941, and ending on December 31, 1946, including members of the armed forces who were lost during flight operations in the Pacific theater of operations covered by section 576 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1501 note).

“(2) The Cold War during the period beginning on September 2, 1945, and ending on August 21, 1991.

“(3) The Korean War during the period beginning on June 27, 1950, and ending on January 31, 1955.

“(4) The Indochina War era during the period beginning on July 8, 1959, and ending on May 15, 1975.

“(5) The Persian Gulf War during the period beginning on August 2, 1990, and ending on February 28, 1991.

“(6) Such other conflicts in which members of the armed forces served as the Secretary of Defense may designate.

“(b) IMPLEMENTATION PROCESS.—(1) The Secretary of Defense shall implement the program within the Department of Defense POW/MIA accounting community.

“(2) For purposes of paragraph (1), the term ‘POW/MIA accounting community’ means:

“(A) The Defense Prisoner of War/Missing Personnel Office (DPMO).

“(B) The Joint POW/MIA Accounting Command (JPAC).

“(C) The Armed Forces DNA Identification Laboratory (AFDIL).

“(D) The Life Sciences Equipment Laboratory of the Air Force (LSEL).

“(E) The casualty and mortuary affairs offices of the military departments.

“(F) Any other element of the Department of Defense whose mission (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action, prisoners of war, or unaccounted for.

“(c) TREATMENT AS MISSING PERSONS.—Each unaccounted for person covered by subsection (a) shall be considered to be a missing person for purposes of the applicability of other provisions of this chapter to the person.

“(d) ESTABLISHMENT OF PERSONNEL FILES.—(1) The Secretary of Defense shall ensure that a personnel file is established and maintained for each person covered by subsection (a) if the Secretary—

“(A) possesses any information relevant to the status of the person; or

“(B) receives any new information regarding the missing person as provided in subsection (e).

“(2) The Secretary of Defense shall ensure that each file established under this subsection contains all relevant information pertaining to a person covered by subsection (a) and is readily accessible to all elements of the department, the combatant commands, and the armed forces involved in the effort to account for the person.

“(3) Each file established under this subsection shall be handled in accordance with, and subject to the provisions of, section 1506 of this title in the same manner as applies to the file of a missing person otherwise subject to such section.

“(e) REVIEW OF STATUS REQUIREMENTS.—(1) If new information (as described in paragraph (3)) is found or received that may be related to one or more unaccounted for persons covered by subsection (a), whether or not such information specifically relates (or may specifically relate) to any particular such unaccounted for person, that information shall be provided to the Secretary of Defense.

“(2) Upon receipt of new information under paragraph (1), the Secretary shall ensure that—

“(A) the information is treated under paragraph (2) of subsection (c) of section 1505 of this title, relating to addition of the information to the personnel

file of a person and notification requirements, in the same manner as information received under paragraph (1) under such subsection; and

“(B) the information is treated under paragraph (3) of subsection (c) and subsection (d) of such section, relating to a board review under such section, in the same manner as information received under paragraph (1) of such subsection (c).

“(3) For purposes of this subsection, new information is information that is credible and that—

“(A) is found or received after November 18, 1997, by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title; or

“(B) is identified after November 18, 1997, in records of the United States as information that could be relevant to the case of one or more unaccounted for persons covered by subsection (a).

“(f) COORDINATION REQUIREMENTS.—(1) In establishing and carrying out the program, the Secretary of Defense shall coordinate with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.

“(2) In carrying out the program, the Secretary of Defense shall establish close coordination with the Department of State, the Central Intelligence Agency, and the National Security Council to enhance the ability of the Department of Defense POW/MIA accounting community to account for persons covered by subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 76 of such title is amended by striking the item relating to section 1509 and inserting the following new item:

“1509. Program to resolve preenactment missing person cases.”.

(c) CONFORMING AMENDMENT.—Section 1513(1) of such title is amended in the matter after subparagraph (B) by striking “section 1509(b) of this title who is required by section 1509(a)(1) of this title” and inserting “subsection (a) of section 1509 of this title who is required by subsection (b) of such section”.

(d) IMPLEMENTATION.—

(1) PRIORITY.—A priority of the program required by section 1509 of title 10, United States Code, as amended by subsection (a), to resolve missing person cases arising before the enactment of chapter 76 of such title by section 569 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 336) shall be the return of missing persons to United States control alive.

(2) ACCOUNTING FOR GOAL.—In implementing the program, the Secretary of Defense, in coordination with the officials specified in subsection (f)(1) of section 1509 of title 10, United States Code, shall provide such funds, personnel, and resources as the Secretary considers appropriate to increase significantly the capability and capacity of the Department of Defense, the Armed Forces, and commanders of the combatant commands to account for missing persons so that, beginning with fiscal year 2015, the POW/MIA accounting

community has sufficient resources to ensure that at least 200 missing persons are accounted for under the program annually.

(3) DEFINITIONS.—In this subsection:

(A) The term “accounted for” has the meaning given such term in section 1513(3)(B) of title 10, United States Code.

(B) The term “POW/MIA accounting community” has the meaning given such term in section 1509(b)(2) of such title.