

**New Proposal
To Amend 10 U.S.C. § 1044
November 2008**

Section 1044. Legal Assistance

“(a) MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY. – Subject to the direction and control of the Secretary concerned, the Secretary shall provide legal assistance in connection with their personal civil legal affairs and in support of military readiness to members of the armed forces who are on active duty and who are at pay grade E-6 or at lower pay grades, and their dependents.

“(b) OTHER PERSONS. – Subject to the direction and control of the Secretary concerned, the Secretary may provide legal assistance in connection with their personal civil legal affairs to the following persons:

“(1) Members of the armed forces who are on active duty in pay grades E-7 and above;

“(2) Members of the reserve components who are not yet on active duty, but who are preparing for mobilization or deployment.

“(3) Members and former members entitled to retired or retainer pay or equivalent pay.

“(4) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

“(5) Members of the reserve components not covered by subsection (a) or paragraph (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary of Defense or, for the Coast Guard, the Secretary of the Department of Homeland Security), for a period of time, prescribed by the Secretary concerned, that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

“(6) Dependents of members and former members described in this paragraph (b).

“(7) Other such persons authorized by the Secretary concerned.

“(c) ESTABLISHMENT AND SUPERVISION. – Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary is responsible for the establishment and supervision of legal assistance programs under this section.

“(d) DEPENDENT. – The Secretary concerned shall define ‘dependent’ for the purposes of this section.

“(e) PERSONAL CIVIL LEGAL AFFAIRS. – The Secretary concerned shall define ‘personal civil legal affairs’ for purposes of this section.

“(f) COUNSEL WHO MAY PROVIDE LEGAL ASSISTANCE. – Legal Assistance provided under this section [and sections 1044a through 1044d] means legal advice provided by counsel who is –

“(1) a judge advocate (as defined in section 801(13) of this title);

“(2) a Department of Defense or Coast Guard civilian attorney serving as a legal assistance officer;

“(3) a host nation attorney or host nation legal advisor serving as a legal assistance officer; or

“(4) a volunteer civilian attorney serving under section 1588 of this title.

(g) CAUSE OF ACTION. – "Nothing in this section is intended to create, nor shall be construed to create, a cause of action enforceable against the United States, its agencies or instrumentalities, or its officers or employees. "

EFFECTIVE DATE. – The amendment made by subsection (a) shall take effect upon the expiration of the 180 day period which begins on the date of the enactment of this Act.