

Department of Veterans Affairs

§ 3.57

for such benefits was received by VA before December 16, 2004.

(Authority: 38 U.S.C. 103).

(b) *Child*. (1) Marriage of a child shall not bar the furnishing of benefits to or on account of such child, if the marriage:

(i) Was void, or

(ii) Has been annulled by a court having basic authority to render annulment decrees, unless it is determined by the Department of Veterans Affairs that the annulment was obtained through fraud by either party or by collusion.

(2) On or after January 1, 1975, marriage of a child terminated prior to November 1, 1990, shall not bar the furnishing of benefits to or for such child provided that the marriage:

(i) Has been terminated by death, or

(ii) Has been dissolved by a court with basic authority to render divorce decrees unless the Department of Veterans Affairs determines that the divorce was secured through fraud by either party or by collusion.

(Authority: 38 U.S.C. 103; 105 Stat. 424, 106 Stat. 4322)

CROSS REFERENCES: Evidence. See §§ 3.206 and 3.207. Termination of marital relationship or conduct. See § 3.215.

[58 FR 32444, June 10, 1993, as amended at 60 FR 52863, Oct. 11, 1995; 64 FR 30245, June 7, 1999; 65 FR 43700, July 14, 2000; 71 FR 29084, May 19, 2006]

§ 3.56 [Reserved]

§ 3.57 Child.

(a) *General*. (1) Except as provided in paragraphs (a)(2) and (3) of this section, the term *child* of the veteran means an unmarried person who is a legitimate child, a child legally adopted before the age of 18 years, a stepchild who acquired that status before the age of 18 years and who is a member of the veteran's household or was a member of the veteran's household at the time of the veteran's death, or an illegitimate child; and

(i) Who is under the age of 18 years; or

(ii) Who, before reaching the age of 18 years, became permanently incapable of self-support; or

(iii) Who, after reaching the age of 18 years and until completion of education or training (but not after reaching the age of 23 years) is pursuing a course of instruction at an educational institution approved by the Department of Veterans Affairs. For the purposes of this section and § 3.667, the term "educational institution" means a permanent organization that offers courses of instruction to a group of students who meet its enrollment criteria, including schools, colleges, academies, seminaries, technical institutes, and universities. The term also includes home schools that operate in compliance with the compulsory attendance laws of the States in which they are located, whether treated as private schools or home schools under State law. The term "home schools" is limited to courses of instruction for grades kindergarten through 12.

(Authority: 38 U.S.C. 101(4)(A), 104(a))

(2) For the purposes of determining entitlement of benefits based on a child's school attendance, the term *child* of the veteran also includes the following unmarried persons:

(i) A person who was adopted by the veteran between the ages of 18 and 23 years.

(ii) A person who became a stepchild of the veteran between the ages of 18 and 23 years and who is a member of the veteran's household or was a member of the veteran's household at the time of the veteran's death.

(3) Subject to the provisions of paragraphs (c) and (e) of this section, the term *child* also includes a person who became permanently incapable of self-support before reaching the age of 18 years, who was a member of the veteran's household at the time he or she became 18 years of age, and who was adopted by the veteran, regardless of the age of such person at the time of adoption.

(Authority: 38 U.S.C. 101(4)(A))

(b) *Stepchild*. The term means a legitimate or an illegitimate child of the veteran's spouse. A child of a surviving spouse whose marriage to the veteran is deemed valid under the provisions of § 3.52, and who otherwise meets the requirements of this section is included.