

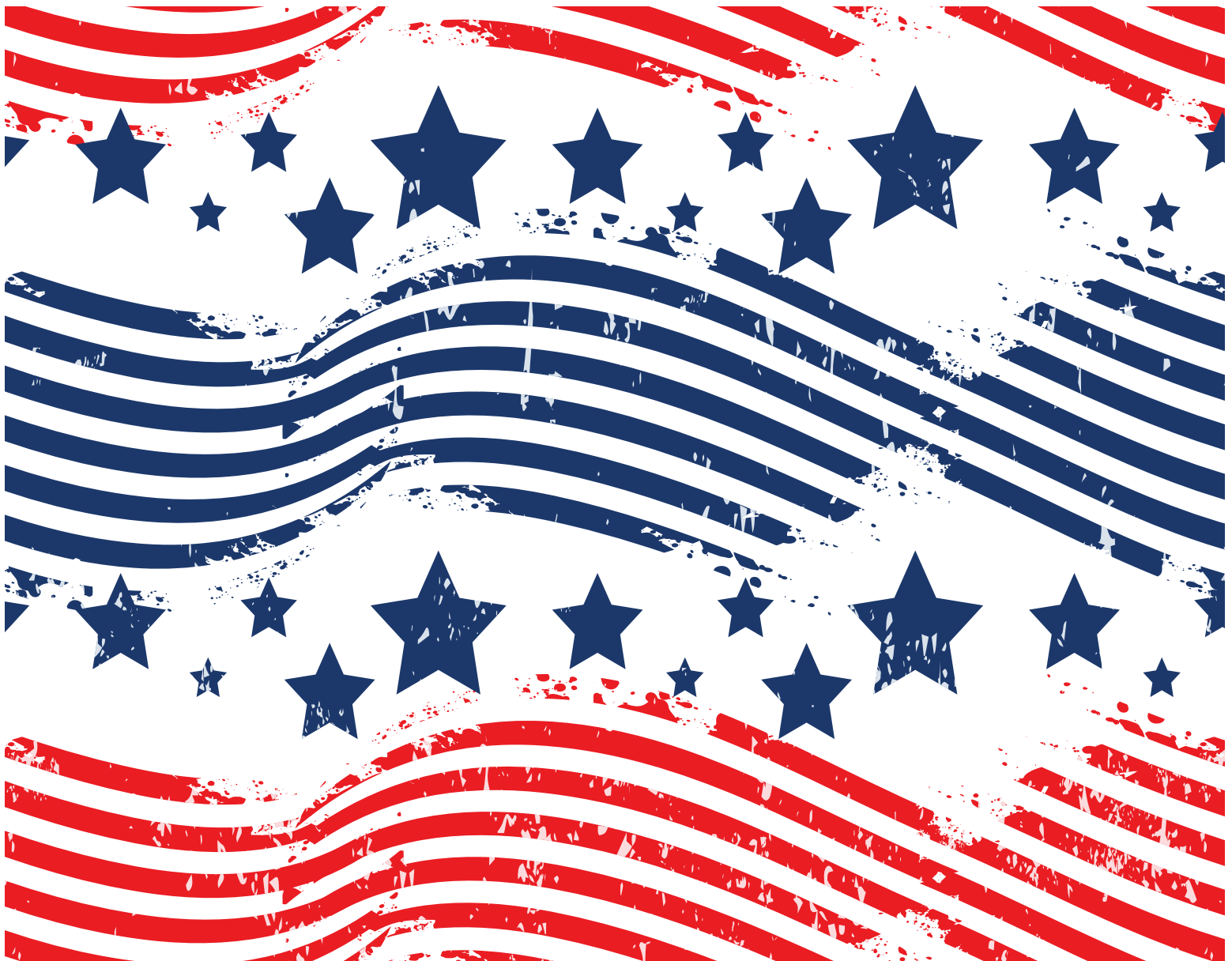


NATIONAL  
ASSOCIATION OF  
ATTORNEYS GENERAL

# Veterans Legal Manual

A Resource Manual for Attorney General Offices to Assist  
Servicemembers and Veterans with Their Unique Legal Issues

**SECOND EDITION**









# Veterans Legal Manual

*Second Edition*

A Resource Manual for Attorney General Offices  
to Assist Servicemembers and Veterans  
with Their Unique Legal Issues

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# Acknowledgements

This Legal Manual was originally published in 2015 following NAAG's<sup>1</sup> first veterans issues training, held in New York City in 2014. That event and the presentations at that training provided the impetus for and foundation of the original manual. NAGTRI Fellow Jesse Longbrake gathered information, conducted further research, and was the primary author of the original manual, and Judy McKee, then Deputy Director of NAGTRI, served as chief editor. Considerable additional assistance and editing were provided by several other individuals whose contributions were acknowledged in the original manual. For this revision, NAAG Antitrust Counsel Michael MacKenzie served as chief editor. Invaluable editing assistance was provided by Todd Leatherman, NAAG Center for Consumer Protection Director, NAAG Consumer Protection Counsel Kate Donovan, as well as former NAAG personnel: previous Antitrust Counsel and Chief Editor Emily Myers, former Consumer Protection Counsel Caroline Lannon, and former NAGTRI Center for Consumer Protection Director Abigail Stempson. Additional assistance was provided by NAAG Fellow Siobhan Canty, NAGTRI Senior Program Coordinator Grace Garver, Steiger Fellow Rosie Moss, and NAAG Law Clerks Grant Two Bulls and Claire Schneider. Generous contributions were made by Nicklas A. Akers, Senior Assistant Attorney General, California Attorney General's Office; Barry Bernstein, former Deputy Attorney General, South Carolina Attorney General's Office; Javier G. Diaz, formerly with the Alaska Department of Law; Rose Goldberg, Deputy Attorney General, California Attorney General's Office; Cooper C. Milhouse, Summer Intern, Alaska Department of Law; Kristine M. Ricketts, Assistant Attorney General, North Carolina Department of Justice; Olha Rybakoff, Senior Assistant Attorney General, Tennessee Attorney General's Office; Jay Simonson, former First Assistant Attorney General, Colorado Attorney General's Office; Deanna Smith, Assistant Attorney General, New York Attorney General's Office; Treg Taylor, Alaska Attorney General; Thomas Banning, Assistant Attorney General, Illinois Attorney General's Office; Randall L. Tyner, Assistant Attorney General, Illinois Attorney General's Office; Phil Woods, Special Deputy Attorney General, North Carolina Attorney General's Office; and Shannon Yount, Military and Veterans Rights Advocate, Illinois Attorney General's Office. Lisa Jeter, NAAG Director of Communications, provided publication design, layout, and production assistance.

Particular credit should also be given to the attorneys general who were members of NAAG's Veterans Committee during the time this revision was prepared—Co-Chairs Alan Wilson (SC), Mark Hering (VA), and Bob Ferguson (WA) and members Treg Taylor (AK), Leslie Rutledge (AR), Jason Ravensborg (SD), and Sean Reyes (UT).

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<sup>1</sup> The National Attorney General's Training & Research Institute (NAGTRI) housed some of NAAG's training and research programs, including those pertaining to veterans, until an administrative restructuring in 2023.

# Foreword

President Abraham Lincoln's Second Inaugural address was delivered in March 1865. It was a time of great weariness and uneasiness as the Civil War was drawing to a close and most of the nation was uncertain about what would unfold next. President Lincoln framed his speech on the moral and religious implications of the war and suggested it was God's judgment upon a nation which had practiced the moral offense of slavery. As his speech progressed, President Lincoln turned from the bitter divisiveness at the war's roots to the task of unifying the nation through reconciliation and reconstruction. In his final paragraph, President Lincoln delivered the most famous lines from his address:

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow, and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

The phrase "to care for him who shall have borne the battle and for his widow, and his orphan" became the rallying cry and motto of what was to become the Department of Veterans Affairs. These words have withstood the test of time and capture the solemn reminder of our sacred obligation to care for all of those injured in our nation's defense, men and women, and the families of those killed in service left behind.

The attorney general community, through every office and the National Association of Attorneys General Veterans Affairs Committee, fulfills this promise every day. Through consumer protection, re-employment of veterans, and the myriad of unique legal issues impacting our veterans and servicemembers and their families, the attorneys general and NAAG are at the forefront of delivering on that promise President Lincoln made 155 years ago. It is my firm belief that this publication will assist the offices of the attorneys general in that commitment.

James E. McPherson,  
*Former Under Secretary of the Army and*  
*Former Acting Secretary of the Navy and*  
*Former NAAG Executive Director*

# Preface

Veterans make up approximately 6% of the U.S. adult population and live in every corner of the country.<sup>2</sup> Their sacrifice to protect the freedoms that each American enjoys does not end with their discharge or retirement. They carry on their service as vital contributors to all aspects of society, including our businesses, communities, and institutions. For some, the price of their service continues to weigh heavily on their lives. Veterans face unique legal challenges and opportunities that are not always covered by traditional legal resources. For example, veterans have certain reemployment rights following their service, are eligible to receive tuition assistance to further their education, and can avail themselves of courts that are specially equipped to help veterans who enter the criminal justice system.

In 2014, the NAAG Veterans Affairs Committee began developing a reference manual to help state attorney general offices with legal issues that veterans commonly encounter. After countless hours of research, writing, and editing by attorneys general and other volunteers, NAAG released the first Veterans Legal Manual in 2015. The manual gave an overview of some of the major legal issues that veterans face and provided helpful resources on topics such as education, employment, and consumer protection.

In this second edition, we have updated available resources for every state, removed outdated material, and updated the Sections on consumer protection, education, and veterans treatment courts.

We hope this guide will help you serve the veterans in your community who have so valiantly served our nation.

NAAG Veterans Affairs Committee

Alan Wilson (Co-Chair),  
*South Carolina Attorney General*

Bob Ferguson (Co-Chair),  
*Former Washington Attorney General*

Treg Taylor,  
*Alaska Attorney General*

Sean Reyes,  
*Former Utah Attorney General*

<sup>2</sup> See U.S. Census Bureau, “Veteran Status,” American Community Survey, Table S2101 (2023) <https://data.census.gov/table/ACSST1Y2022.S2101?q=veterans>.

# Statement from the Executive Director

There is an old military adage that “the mission is an 18-year-old with a rifle, everything else is support.” Although there are plenty of people with gray hair running around the military, and there are plenty of people who fight without rifles, this bit of wisdom concisely encapsulates the core mission of the military. It also demonstrates the challenges faced by our nation’s military personnel, whether they are active duty, reserve, Guard, retired, or part of the vast majority who left the military short of retirement. Service in the military asks much of our members, especially those enlisting just after high school graduation. More than two-thirds of members serving in the military are younger than 30 and serve for an average of approximately 6 years, meaning that the impact of military service will likely stretch on for many years beyond these members’ service.

The intense requirements and sacrifices of military service subject many of its members to trauma in a way that no other organization does. Those who serve often live with constant disruption of their lives, whether rotating to new service stations every two to three years or being pulled away from a civilian job on relatively short notice to serve in a conflict area and then reinserted back into their civilian life. Once separated from the military, our veterans must adapt to the differences posed by civilian life. Many must deal with significant physical and emotional scars caused by their service while adapting to a civilian community that does not fully understand their experiences and a time horizon that stretches on for many years beyond their service.

In serving our veterans, we must acknowledge several things. First, in light of the many sacrifices made by our veterans, we as a nation—and as members of the attorney general community—have special obligations to ensure their fair and just treatment. Second, servicemembers and other veterans are particularly in the cross-hairs of dishonest actors, whether it is because of their relative youth, frequent moves that inhibit an understanding of who in their community is reputable and who is not, or vulnerabilities caused by deployments far away from their homes. Third, there are otherwise honest entities that just don’t understand the special protections provided for veterans through the SCRA, USERRA, and similar state laws. Finally, the trauma that many veterans experienced during their service can lead to reintegration problems that demand compassionate treatment by our legal systems.

This manual is designed to offer a series of tools to assist you in your efforts to support and protect our veterans. Thank you for your dedication and commitment in ensuring we protect those who have done so much to protect us!

Brian P. Kane,  
*NAAG Executive Director*

# Statement from the 2023 NAAG President

Twice a year we take time to think about our military veterans and thank them: Memorial Day and Veterans Day.

The rest of the year, perhaps less so.

And even when we do think about veterans, it's often one-dimensional.

So, let's consider all the ways that veterans are special.

First, there are 330 million citizens of the United States. But of those, just 1.3 million are on active duty and 16 million are veterans. That means that just 5 out of every 100 Americans has a sense of mission that drives them to volunteer to defend the rest of us. That makes them special.

Second, each of these people has made a promise to put his or her life in danger so that the rest of us don't have to. That also makes them special.

Third, most of them are doing this during the prime years of their lives. While the rest of us are pursuing an education, building a career, and raising a family, these volunteers are devoting themselves to ensuring that we can do these things in peace and security. In many cases, they are postponing their goals so that we can achieve ours. This sets them apart.

Fourth, when our military servicemen and women complete their service and return to civilian life, they continue to give to their country.

According to the federal Small Business Administration, almost a tenth of American businesses are owned by veterans. These companies generate \$1 trillion in annual revenue and employ about 5 million people.

And I am pleased to say that in the Ohio Attorney General's Office, we have about 70 staffers who started their public service in the military and now continue it in state government.

It is because of the unique role veterans play in our nation – and the debt that we owe them – that I decided to make veterans the focus of my presidential initiative – “Serving Those Who Serve” – during my tenure as president of NAAG.

Not only are veterans fully entitled to all of the government services and legal protections afforded to all U.S. citizens, they also enjoy additional protections under laws such as the Uniformed Services Employment and Reemployment Act and the Service Members Civil Relief Act and similar state laws.

As attorneys general, we should help ensure that our veterans are aware of and receive the benefit of these special protections.

Sadly, one side effect of military service is that some veterans return to civilian life traumatized by their experience with violence.

This can lead to mental illness and substance use that lands many of them in the justice system.

In Ohio, we have launched a program in which local law enforcement works with veteran services,





court personnel, and social service providers to create Veteran Response Teams in communities across Ohio.

These teams combine veteran-specific knowledge with crisis-intervention training. The idea is that the moment someone becomes aware of a veteran facing crisis, the response team will act. The team lets veterans know that they are not alone in their struggle and guides them to the help they need.

One of things we often hear on Memorial Day and Veterans Day is that we can never repay the debt that we owe to our military veterans. That's true. But even though we can't repay the debt we owe to them, it doesn't mean we shouldn't try. This manual is designed to help you in that effort. Our veterans deserve everything that we can do for them.

Thank you,

Dave Yost,  
*Ohio Attorney General,  
NAAG President 2023*

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# Introduction



Credits—Above: Army Sgt. Ethan Scofield, VIRIN 240115-A-LT474-1019Y; Below: Staff Sgt. Alexander C. Henninger, VIRIN 180518-A-LJ797-343

## OUTLINING THE PURPOSE AND GOALS OF THE GUIDE

*The goals of this Guide are threefold.*

*First, the Guide is meant to give a concise overview of some of the major legal issues faced by military service-members, veterans, and their families in broad areas such as litigation, consumer protection, education, and employment.*

*Second, it is meant to provide a background in the legal framework surrounding those issues. Although it does not provide exhaustive analysis of legal precedent, it is intended to provide a valuable jumping-off point for attorneys general and their staffs to perform their due diligence in particular cases.*

*Finally, it aims to provide practical information and resources that can be passed along to military servicemembers, veterans, and their families to help them protect themselves and vindicate their interests in the areas of litigation, consumer protection, education, and employment.*





# What is a Veteran?



Credit—Army Pfc. Isaiah Mount, VIRIN 240603-A-ND131-8446M

## **DISTINGUISHING BETWEEN SERVICEMEMBERS AND VETERANS**

*The rights, protections, and benefits military servicemembers are afforded are determined by their legally defined military status. In the civilian community, the terms servicemember and veteran are often used interchangeably, informally, and imprecisely. However, attorneys operating in this space should understand the distinctions between active duty servicemembers, reservists, and the various classifications falling under the term “veteran” as a paramount initial assessment of the matter presented.*

### **Active Servicemembers**

For most purposes, a “military servicemember” or “servicemember” is a current member of the United States uniformed services. The uniformed services include the active duty, reserves, and National Guard components of the six branches of the Armed Forces: the Army, Navy, Air Force, Marine Corps, Coast Guard and Space Force.<sup>3</sup> The uniformed services also include the commissioned corps of the Public Health Service and the

National Oceanic and Atmospheric Administration.<sup>4</sup> Different rights, protections, and benefits may be implicated depending on whether a servicemember is serving on active, reserve, or National Guard duty; additionally, the particular provisions of military orders and terms of service may affect the legal protections afforded to an active duty servicemember. Therefore, while it is helpful to have a basic understanding of these different duty statuses, attorneys assisting servicemembers must carefully consult the duty status requirements of any statutes applicable to their work.

### **Active Duty**

According to Title 10 of the U.S. Code, the term “active duty” means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance while in active military service, at a school designated as a service school by law, or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.<sup>5</sup>

<sup>4</sup> 10 U.S.C. § 101(a)(5) (2024).

<sup>5</sup> 10 U.S.C. § 101(d)(1) (2024). Full text at Appendix A, *infra*. Note that while on full-time and annual training duty, members of the National Guard or reserve component are considered to be on active duty. See 10 U.S.C. § 101(d)(6)(A) (2024).

<sup>3</sup> 10 U.S.C. § 101(a)(4) (2024).

In other words, a person who is on active duty works for the military full time; they may be deployed, or they may serve at a military base, subject to deployment at any time.<sup>6</sup>

## The Reserve Components

Each of the branches of the Armed Forces except Space Force also has a reserve component whose purpose is to provide and maintain trained units and qualified persons to be mobilized for active duty in the Armed Forces when needed.<sup>7</sup> Mobilizations may be in times of war, in a national emergency, or as the need occurs based on threats to national security.<sup>8</sup> Reservists may be called upon to serve either stateside or overseas.<sup>9</sup> Traditionally, the primary job of the reserve was to fill the gaps in stateside service positions when the active duty forces are deployed overseas.<sup>10</sup> However, since the terrorist attacks on September 11, 2001, reservists have been a major part of America's fighting force: over 1,000,000 reservists were mobilized for duty in operations in Iraq and Afghanistan.<sup>11</sup>

The reserve components are further broken down into the "Selected Reserves" and "Individual Ready Reserves."<sup>12</sup> The Selected Reserves are the drilling reservists; they participate in training drills one weekend per month and two weeks per year.<sup>13</sup> They are the first reservists to be mobilized for active duty. The Individual Ready Reserves are non-drilling reservists; they do not have the training drill obligations of the Selected Reserves.<sup>14</sup> Further, Individual Ready Reserve mobilizations are more limited.

### National Guard

The Army and Air Force contain National Guard components which are federally funded but organized and controlled by each state.<sup>15</sup> The National Guard assists during local disasters, such as fires and floods. However, in times of national crises, the National Guard may be brought under federal control and deployed. Having its origins well before the Revolutionary War, the National

Guard has served the country for nearly 400 years and has fought in every major American conflict. Members of the National Guard have undergone significant deployments overseas.<sup>16</sup> Similar to the Reserve components, the National Guard requires that members undergo training one weekend a month and two weeks per year.

## Veterans

The definition of "veteran" in various federal and state laws may vary, depending on the context or the benefits being offered. For instance, for determining eligibility for most federal veterans' benefits, "veteran" is defined as "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable."<sup>17</sup> Some veterans' educational benefits are also offered to commissioned officers of the National Oceanic and Atmospheric Administration and the Public Health Service.<sup>18</sup> In this manual, the term "veteran" will generally be used to refer to those who are no longer on active duty. The term "servicemember" will generally be used to refer to those still on active duty.

## Discharged Servicemembers

Separation from military service "is a term that encompasses discharge, release from active duty, release from the custody and control of the military services, transfer to the Individual Ready Reserve, and similar changes in active or reserve status."<sup>19</sup> Discharged servicemembers are separated members of the Armed Forces whose military service obligations are fully alleviated. Discharges fall into two main categories: administrative and punitive. There are several different characterizations of discharge within those categories which affect the benefits to which a discharged servicemember is entitled.

Additionally, discharge should not be confused with retirement. Retirement generally means that the servicemember has completed at least 20 years of honorable service. Many retired veterans still have military obligations and are subject to recall to active duty. When a servicemember "retires," he or she may enter the "retired

<sup>6</sup> *Active Duty vs. Reserve or National Guard*, Department of Veterans Affairs (Apr. 6, 2012), [www.va.gov/vetsinworkplace/docs/em\\_activeReserve.html](http://www.va.gov/vetsinworkplace/docs/em_activeReserve.html) [hereinafter "Active Duty vs. Reserve"].

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Lawrence Kapp, et al., *Reserve Component Personnel Issues: Questions and Answers*, Congressional Research Service, 8 and n.32 (Nov. 2, 2021), <https://crsreports.congress.gov/product/pdf/RL/RL30802>.

<sup>12</sup> *Id.* at 1.

<sup>13</sup> *Id.* at 1-2.

<sup>14</sup> *Id.* at 2.

<sup>15</sup> *Active Duty vs. Reserve*, *supra* note 6.

<sup>16</sup> 2019 National Guard Bureau Posture Statement, National Guard 18, <https://www.nationalguard.mil/portals/31/Documents/PostureStatements/2019-National-Guard-Bureau-Posture-Statement.pdf>.

<sup>17</sup> 38 U.S.C. § 101(2) (2024).

<sup>18</sup> *Education Benefits Frequently Asked Questions*, Commissioned Corps of the U.S. Public Health Service, [https://dcp.psc.gov/ccmis/Education\\_benefits\\_FAQ.aspx?AspxAutoDetectCookieSupport=1; Eligibility and Benefits](https://dcp.psc.gov/ccmis/Education_benefits_FAQ.aspx?AspxAutoDetectCookieSupport=1; Eligibility and Benefits), NOAA Office of Marine and Aviation Operations, <https://www.omao.noaa.gov/noaa-corps/eligibility-and-benefits>.

<sup>19</sup> Veterans' Employment & Training Service, *Vets USERRA Fact Sheet #3*, Department of Labor, <https://www.dol.gov/sites/dolgov/files/VETS/files/USERRA-Fact-Sheet-3-Separations.pdf> [hereinafter "Vets USERRA Fact Sheet #3"].



reserve” and may be subject to recall to active duty up to the age of 60. After reaching the age of 60, recall to active duty is typically voluntary.<sup>20</sup>

### **Administrative Discharges**

**Honorable.** To receive an honorable discharge, servicemembers must have met the standards of acceptable conduct and performance for military personnel. A servicemember does not need to complete their term of service to have a discharge characterized as honorable; for instance, the Secretary of Defense may characterize discharges as honorable for a pre-existing medical condition, hardship, or a physical or medical condition that interferes with an individual’s performance of duty.<sup>21</sup> An honorable discharge “is the highest character of service that a servicemember may receive.”<sup>22</sup>

**General (Under Honorable Conditions).** General discharges are given to servicemembers whose “service has been honest and faithful” and “is warranted when the positive aspects of the [servicemember’s] conduct or performance of duty outweigh negative aspects of the [servicemember’s] conduct or performance of duty as documented in their service record.”<sup>23</sup> Reasons for this characterization of service vary.<sup>24</sup>

Generally speaking, a servicemember receiving a general discharge is entitled to the same veterans’ benefits as one receiving an honorable discharge.<sup>25</sup> However, a general discharge may preclude participation in benefits, such as those from the GI Bill, where a fully honorable discharge is required.<sup>26</sup>

**Other than Honorable Conditions.** A discharge under Other Than Honorable (OTH) conditions is the most severe form of administrative discharge. This type of discharge represents a serious departure from the conduct and performance expected of all military members. Examples of conduct that can lead to an OTH discharge “include the use of force or violence to produce serious bodily injury or death; abuse of a special position of trust; disregard by a superior of customary superior-

subordinate relationships; acts or omissions that endanger the security of the United States or the health and welfare of other servicemembers of the Military Services; and deliberate acts or omissions that seriously endanger the health and safety of other persons.”<sup>27</sup>

Recipients of OTH discharges are barred from reenlisting.<sup>28</sup> Further, they are normally barred from joining the Army National Guard or Air National Guard, except under rare circumstances that require exception-to-policy waivers.<sup>29</sup> In addition, the majority of veterans’ benefits are not available to individuals who receive an OTH discharge, including the Montgomery and Post-9/11 GI Bills and (in most cases) VA healthcare benefits.<sup>30</sup>

### **Punitive Discharges**

**Bad Conduct Discharge.** A Bad Conduct Discharge (BCD) can only be imposed by a court-martial (either special or general)<sup>31</sup> on an enlisted servicemember as punishment for “bad-conduct rather than as a punishment for serious offenses of either a civilian or military nature.”<sup>32</sup> Receipt of a BCD revokes virtually all veterans’ benefits.<sup>33</sup>

**Dishonorable Discharge.** A dishonorable discharge can only be issued following a finding of guilt at a general court-martial.<sup>34</sup> Dishonorable discharges are handed down for what the military considers the most

<sup>20</sup> See U.S. Army Retirement Planning Guide 2022, Department of the Army (2022), [https://home.army.mil/daegu/7416/3995/9678/2022\\_Army\\_RetPlanningGde.pdf](https://home.army.mil/daegu/7416/3995/9678/2022_Army_RetPlanningGde.pdf).

<sup>21</sup> See 38 U.S.C. § 3311(c)(4) (2024); see also Instruction Letter No. 1332.14, Department of Defense (August 1, 2024), [https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133214p.pdf?ver=1eXEk0XB\\_UINDULtbnGKdO%3d%3d](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133214p.pdf?ver=1eXEk0XB_UINDULtbnGKdO%3d%3d) [hereinafter “DoDI 1332.14”].

<sup>22</sup> Vets USERRA Fact Sheet #3, supra note 19.

<sup>23</sup> DoDI 1332.14, supra note 21.

<sup>24</sup> See *id.*

<sup>25</sup> *Applying for Benefits and Your Character of Discharge*, Department of Veteran Affairs, [https://www.benefits.va.gov/benefits/character\\_of\\_discharge.asp](https://www.benefits.va.gov/benefits/character_of_discharge.asp).

<sup>26</sup> See 38 U.S.C. § 3311(c) (2024).

<sup>27</sup> Sidath Viranga Panangala, *Veterans’ Benefits: The Impact of Military Discharges on Basic Eligibility*, Congressional Research Service (Mar. 6, 2015) <https://crsreports.congress.gov/product/pdf/R/R43928> [hereinafter “*Impact of Military Discharges*”], at 18.

<sup>28</sup> Betsy Gwin et al., *Military Discharge Upgrade: Legal Practice Manual*, 1.7.1.3, American Bar Association (2021) [hereinafter *Military Discharge Upgrade*].

<sup>29</sup> Oregon Department of Military Affairs, *Military discharge in the United States*, [www.oregon.gov/ODVA/docs/PDFs/Criminal\\_Justice\\_Portal/Military\\_discharge.pdf](http://www.oregon.gov/ODVA/docs/PDFs/Criminal_Justice_Portal/Military_discharge.pdf) (archived at [https://web.archive.org/web/20160303192452/http://www.oregon.gov/ODVA/docs/PDFs/Criminal\\_Justice\\_Portal/Military\\_discharge.pdf](https://web.archive.org/web/20160303192452/http://www.oregon.gov/ODVA/docs/PDFs/Criminal_Justice_Portal/Military_discharge.pdf)) [hereinafter *Military Discharge in the United States*].

<sup>30</sup> *Impact of Military Discharges*, supra note 27, at 8.

<sup>31</sup> There are three types of courts-martial: summary, special, and general. 1 Military Crimes and Defenses § 2.3 (2024). Who can be tried, the offenses that can be tried, and the maximum punishments that can be imposed differ for each type. *Id.* A summary court-martial may only be used to try enlisted servicemembers, may only be used with their consent, and can only impose punishments lesser than those possible at a special court-martial. *Id.* A special court-martial has jurisdiction over any person subject to the Uniform Code of Military Justice for non-capital offenses. *Id.* A special court-martial is the lowest level at which a punitive discharge may be issued, and dishonorable discharges are not authorized as punishments at a special court-martial. *Military Discharge Upgrade*, supra note 28, at 1.6.1. “The most serious offenses are referred to a general court-martial,” which may impose either a dishonorable or a bad conduct discharge if that is an authorized punishment of an offense. *Id.* at 1.6.2.

<sup>32</sup> Manual for Courts-Martial, Rule of Courts-Martial 1003(c)(1)(C).

<sup>33</sup> See *Impact of Military Discharges*, supra note 27, at 6; Vets USERRA Fact Sheet #3, supra note 19.

<sup>34</sup> Manual for Courts-Martial, Rule of Courts-Martial 1003(b)(8)(B).

reprehensible conduct. This type of discharge is reserved for those “offenses usually recognized in civilian jurisdictions as felonies[] or of offense of a military nature requiring severe punishment.”<sup>35</sup> Servicemembers whose service is terminated via dishonorable discharge lose all veterans’ benefits, regardless of any past honorable service.<sup>36</sup> In some instances a dishonorable discharge is deemed the equivalent of a felony conviction, with attendant loss of civil rights.<sup>37</sup>

**Dismissal.** A punishment awarded to an officer is termed a dismissal and can only be adjudged at a general court-martial.<sup>38</sup>

### ***Upgrades to Discharge Status***

Military review boards – each military department’s Discharge Review Board or the Boards for Correction of Military/Naval Records – have the ability to change or “upgrade” a veteran’s discharge status.<sup>39</sup> Former servicemembers can petition these boards to review evidence contesting the contents of their service records and to apply retroactive upgrades to their discharge status.<sup>40</sup> There are legal service providers that offer free legal clinics in Veterans Affairs facilities that may be able to assist former servicemembers with seeking an upgrade.<sup>41</sup> Appendix C also contains information about organizations that provide veterans with legal assistance, including some which may be able to assist with discharge upgrades.

<sup>35</sup> *Id.*

<sup>36</sup> *Military Discharge in the United States*, *supra* note 29.

<sup>37</sup> *See id.*; 18 U.S.C. § 922(g)(6) (2024) (possession of firearms); 10 U.S.C. § 1491 (2024) (funeral honors ceremony).

<sup>38</sup> *Impact of Military Discharges*, *supra* note 27, at 18.

<sup>39</sup> *See Military Discharge Upgrade*, *supra* note 28, at 2.1.0; *Impact of Military Discharges*, *supra* note 27, at 1 n.2.

<sup>40</sup> *Id.*

<sup>41</sup> *Legal Help for Veterans*, Department of Veterans Affairs, <https://www.va.gov/OGC/LegalServices.asp>.



# Litigation and the Servicemembers Civil Relief Act



Credit—Army Sgt. Ken Scar, VIRIN 120523-A-ZU930-010

## **DEFINING SERVICEMEMBERS' RIGHTS AND REMEDIES IN LEGAL DISPUTES AFFECTED BY THEIR SERVICE**

The Servicemembers Civil Relief Act (SCRA) protects military servicemembers in a variety of legal contexts ranging from judicial proceedings to taxation and more. It is intended “to provide for, strengthen, and expedite the national defense through protection extended by this section to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.”<sup>42</sup> It is also a very powerful consumer protection law because it places substantial limitations on default judgments and self-help enforcement of mortgage and lease obligations; it allows for penalty-free cancellation of premises and automobile leases; and it reduces interest rates on some pre-service obligations to 6%, among other protections.

<sup>42</sup> 50 U.S.C. § 3902(1)-(2) (2024).

This Section provides a brief overview of much of the SCRA’s legal framework and provides additional resources which readers may consult to enhance their understanding of the full depth and breadth of SCRA protections.

### **Legal Framework**

This Section provides an overview of the SCRA’s coverage and jurisdiction; the rights it conveys; the penalties and remedies it provides; and various state laws which contain similar provisions and may extend beyond the SCRA’s scope.

#### **Coverage and Jurisdiction**

The protections of the SCRA typically apply during a servicemember’s “military service.” This term bears different meanings depending on the servicemember’s branch of service.

- “[I]n the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps,

or Coast Guard or Space Force, [the term ‘military service’ means] active duty, as defined in section 101(d)(1) of title 10” of the United States Code.<sup>43</sup> “Active duty” is defined as “full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.”<sup>44</sup>

- “[I]n the case of a member of the National Guard, [the term ‘military service’] includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under [32 U.S.C. § 502(f)] for purposes of responding to a national emergency declared by the President and supported by Federal funds...”<sup>45</sup>
- “[I]n the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, [the term ‘military service’ includes] active service.”<sup>46</sup>
- “Military service” also includes “any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.”<sup>47</sup>

The jurisdiction of the SCRA is very broad. Its protections apply in all civil and administrative proceedings at the federal, state, and local level.<sup>48</sup> In other words, except for criminal proceedings, the SCRA applies to all judicial and administrative proceedings.<sup>49</sup>

## **Rights Conveyed**

The SCRA protects military servicemembers in a variety of legal contexts ranging from judicial proceedings to taxation and more. SCRA rights can be character-

ized into two main categories: General Relief Provisions applicable in all civil proceedings and provisions which are effective in more specific legal contexts.

## **General Relief Provisions**

### **Protections Regarding Default Judgments.**<sup>50</sup>

Some of the strongest and most important protections of the SCRA are those regarding the entry of default judgments. Before a court may enter a default judgment in any civil proceeding where a defendant servicemember does not make an appearance, the plaintiff must file an affidavit stating whether or not the defendant is in military service. If the affidavit shows that the defendant is in military service, the court may not enter a default judgment until after the court appoints an attorney to represent the defendant.

An attorney appointed under these provisions may apply for a stay of proceedings, which the court must grant for at least 90 days if it finds that (1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or (2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists. Note that this stay procedure does not apply in cases where the defendant receives actual notice of the proceedings, which are governed by another section of the SCRA.<sup>51</sup>

If a default judgment is entered against a defendant during their period of military service or within 60 days thereafter without the plaintiff filing the required affidavit regarding the defendant’s military service, the defendant may move to set aside the default judgment within 90 days after release from military service. The court must set aside the judgment and reopen the matter for further proceedings if it determines that (1) the servicemember was materially affected by reason of that military service in making a defense to the action; and (2) the servicemember has a meritorious or legal defense to the action or some part of it.<sup>52</sup>

**Stays of Proceedings.**<sup>53</sup> Servicemembers may request a stay of proceedings when they have received actual notice of any civil proceeding and are either in military service or within a period of 90 days following their release from military service. The court must grant

<sup>43</sup> 50 U.S.C. § 3911(2) (2024). See, *infra*, Appendix A for the relevant text of Title 10.

<sup>44</sup> 10 U.S.C. § 101(d)(1) (2024).

<sup>45</sup> 50 U.S.C. § 3911(2)(A)(ii) (2024). Some states extend the protections of their SCRA-equivalent statutes to National Guard members or reservists when called into active service by the governor. See, e.g., Ark. Code § 12-62-704 (2023) (applying protections of the Arkansas Soldiers’ and Airmen’s Civil Relief Act to Arkansas National Guard members ordered into active military service by the governor under various circumstances).

<sup>46</sup> 50 U.S.C. § 3911(2)(B) (2024).

<sup>47</sup> 50 U.S.C. § 3911(2)(C) (2024).

<sup>48</sup> See 50 U.S.C. §§ 3911(5), 3912(b) (2024).

<sup>49</sup> *Id.*

<sup>50</sup> See 50 U.S.C. § 3931 (2024); see also John S. Odom, Jr., *A Judge’s Benchbook for the Servicemembers Civil Relief Act* 21-25 (ABA Publishing 2011) [hereinafter *SCRA Benchbook*].

<sup>51</sup> See 50 U.S.C. § 3932(a) (2024).

<sup>52</sup> 50 U.S.C. § 3931(g) (2024).

<sup>53</sup> 50 U.S.C. § 3932(b); see also *SCRA Benchbook*, *supra* note 50, at 26–29.



the servicemember a stay of at least 90 days if their request for a stay is properly filed and includes:

- (A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear[;] [and]
- (B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

A servicemember who is granted an initial 90-day stay may request an additional stay based on a continuing material effect of military duty on the servicemember's ability to appear. The request must be accompanied by the same information as the initial request for a stay. Granting of additional stays is discretionary. However, if the court refuses an additional stay, the court must appoint counsel to represent the servicemember in the proceeding.

Note that a servicemember does not need to be deployed to a distant area to qualify for a stay. So long as their military service materially affects their ability to appear and military leave is not authorized, the servicemember qualifies for a stay of proceedings.<sup>54</sup> Also, note that a court may issue a stay under this section *sua sponte*.

**Stay or Vacatur of Judgments.** As relief of last resort, the SCRA allows a servicemember to request a stay of the execution of any judgment or order entered against the servicemember in any civil proceeding commenced during military service or within 90 days after release therefrom. A servicemember may also request the vacation or stay of an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment. The court must grant a servicemember's request for a stay or vacation if the court finds that the servicemember is materially affected by reason of military service in complying with the judgment or order. The court may also grant a stay or vacation *sua sponte*, provided that the court finds that the servicemember is materially affected by reason of military service in complying with the court's judgment or order.<sup>55</sup>

**Tolling Statutes of Limitations.** The SCRA very broadly tolls statutes of limitation both for and against a military servicemember during the time of their military service. The SCRA states, in relevant part:

"The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns."<sup>56</sup>

The tolling provision of the SCRA also applies to the computation of the period during which a servicemember may redeem real property sold or forfeited to enforce an obligation. The only statutes of limitations not tolled by military service under the SCRA are those established under the United States Internal Revenue Code.

### Other Protective Provisions

**Cap on Interest Rates.**<sup>57</sup> The SCRA limits the interest rate on any pre-service obligation or liability to 6% for the duration of military service if the military service materially affects the servicemember's ability to pay the debt at the contract rate of interest. It is important to emphasize that this 6% cap only applies to obligations incurred prior to entering military service. To invoke the cap, the SCRA requires the servicemember to make a written demand for the relief and provide a copy of military orders to creditors at any time during the period of military service or within 180 days of the servicemember's release from military service. Regardless of when notice is given during this period, the rate cap applies retroactively from the beginning of military service. Any interest incurred during military service at a rate in excess of 6% will be forgiven and refunded if need be.

The rate cap can apply to any obligation, including credit card debt and mortgage obligations. The rate cap expires at the end of military service except with respect to mortgages, in which case the cap continues to apply for one year after exiting military service.

A court may grant a creditor relief from the 6% interest rate cap if the court finds that the ability of a servicemember to pay interest upon the obligation or liability at a rate in excess of 6% per year is not materially

<sup>54</sup> *Id.*

<sup>55</sup> See 50 U.S.C. § 3934; see also *SCRA Benchbook*, *supra* note 50, at 32–33.

<sup>56</sup> 50 U.S.C. § 3936(a) (2024).

<sup>57</sup> See 50 U.S.C. § 3937 (2024); see also *SCRA Benchbook*, *supra* note 50, at 38–40.

affected by reason of the servicemember's military service.

**Protections in Mortgage Proceedings.**<sup>58</sup> In addition to the interest rate cap, the SCRA provides servicemembers with several protections regarding mortgage obligations incurred prior to entering military service. These protections apply during a servicemember's military service and for one year thereafter.<sup>59</sup> First and foremost, for any pre-service mortgage obligation, the SCRA prevents a mortgage creditor from exercising self-help. That is, the SCRA prohibits a mortgage creditor from selling, foreclosing, or seizing a servicemember's mortgaged property *except* pursuant to a court order or agreement with the servicemember.<sup>60</sup>

The SCRA also entitles a servicemember to a stay of proceedings in an action by a creditor against a servicemember to enforce a mortgage obligation. A court must grant a servicemember's request for a stay if the servicemember shows that his or her military service materially affects the ability to comply with the obligation. If he or she does so, the SCRA may also entitle the servicemember to an adjustment of the obligation "to preserve the interests of all parties."<sup>61</sup> A court may also issue a stay or adjust the obligation on its own motion.

The 2012 National Mortgage Servicing Settlement Agreement imposes additional SCRA compliance requirements on five major mortgage servicers: Bank of America, J.P. Morgan Chase, Wells Fargo, Citigroup, and Ally Financial.<sup>62</sup> For instance, the mortgage servicers which were parties to the settlement must notify servicemembers who are 45 days delinquent that they may be entitled to SCRA protections regarding the interest rate and risk of foreclosure and that counseling for servicemembers is available from agencies such as Military OneSource and Armed Forces Legal Assistance.<sup>63</sup>

**Protections in Eviction Proceedings.**<sup>64</sup> The SCRA grants protections similar to its mortgage provisions in the residential lease context. A landlord's self-help options are all but eliminated; except pursuant to a court order, a landlord may not evict a servicemember or dependents during the servicemember's period of military service regardless of when the lease originated. Nor may a landlord subject the servicemember's premises to a

distress action during a period of military service. However, these provisions only apply to residential leases whose monthly rent falls under a specified level which is adjusted to match inflation. For 2024, these provisions apply to residential leases where the monthly rent is less than \$9,812.12.<sup>65</sup>

The SCRA also entitles a servicemember to a stay of eviction or distress proceedings during the servicemember's military service. A court must grant a stay upon a servicemember's request if the servicemember shows that his or her military service materially affects the ability to pay the agreed rent.<sup>66</sup> The duration of the stay shall be 90 days unless the court finds that justice and equity require a longer or shorter stay. In addition to the granting of a stay upon a servicemember's request, a court can grant a stay *sua sponte*. A court may also adjust the obligation under the lease to preserve interests of all parties either on its own motion or on the request of a servicemember.<sup>67</sup>

**Premises and Motor Vehicle Lease Terminations.**<sup>68</sup> The SCRA allows a servicemember to terminate premises and motor vehicle leases without suffering early termination penalties under certain circumstances that require the servicemember to change locations. This applies to leases "of premises occupied, or intended to be occupied, by a servicemember or [their] dependents for a residential, professional, business, agricultural, or similar purposes."<sup>69</sup> A servicemember may terminate a premises lease entered into prior to a period of military service upon entry into military service. A servicemember may terminate a lease entered into during military service if they receive orders for a permanent change of station or deployment for 90 days or more in support of a military operation. For a premises lease providing for monthly payment of rent, the termination is effective 30 days after the first payment date following the servicemember's notice of termination. For any other premises lease, the termination is effective on the last day of the month following the month in which notice is given.

The circumstances under which a servicemember may terminate a motor vehicle lease are narrower. A servicemember who signs a motor vehicle lease prior to en-

<sup>58</sup> See 50 U.S.C. § 3953 (2024); see also *SCRA Benchbook*, *supra* note 50, at 47-48.

<sup>59</sup> 50 U.S.C. § 3953(b) (2024).

<sup>60</sup> 50 U.S.C. § 3953(c) (2024).

<sup>61</sup> 50 U.S.C. § 3953(b)(2) (2024).

<sup>62</sup> See *United States v. Bank of America Corp.* Consent Judgment, A-32 to A-33, <https://www.justice.gov/sites/default/files/opa/legacy/2012/03/12/bank-of-america-consent-judgment.pdf>.

<sup>63</sup> *Id.*

<sup>64</sup> See 50 U.S.C. § 3951 (2024); see also *SCRA Benchbook*, *supra* note 50, at 43-44.

<sup>65</sup> Publication of Housing Price Inflation Adjustment Under United States Code, 89 Fed. Reg. 22699 (Mar. 27, 2024), [https://www.federalregister.gov/documents/2024/04/02/2024-06896/publication-of-housing-price-inflation-adjustment#:~:text=SUMMARY:%20The%20DoD%20is%20announcing%20the%202024.as%20of%20January%201%2C%202024%2C%20is%20\\$9%2C812.12.](https://www.federalregister.gov/documents/2024/04/02/2024-06896/publication-of-housing-price-inflation-adjustment#:~:text=SUMMARY:%20The%20DoD%20is%20announcing%20the%202024.as%20of%20January%201%2C%202024%2C%20is%20$9%2C812.12.)

<sup>66</sup> 50 U.S.C. § 3951(b)(1)(A) (2024).

<sup>67</sup> 50 U.S.C. § 3951(b)(1)(B) (2024).

<sup>68</sup> See 50 U.S.C. § 3955 (2024); see also *SCRA Benchbook*, *supra* note 50, at 51-55.

<sup>69</sup> 50 U.S.C. § 3955(b)(1) (2024).

tering military service may terminate the lease upon entry into military service only if the period of service is 180 days or more. A servicemember who enters a motor vehicle lease during military service may terminate the lease upon receiving the following military orders: (1) a permanent change of station from a location within the continental United States to a location outside the continental United States; (2) a permanent change of station from Alaska, Hawaii or a United States commonwealth, territory or possession of the United States outside the continental United States to a location outside of that state, commonwealth, territory or possession; or (3) a deployment for 180 days or more in support of a military operation.<sup>70</sup>

To terminate a lease, a servicemember must provide the lessor with written notice of the termination along with a copy of the servicemember's military orders or any notification, certification, or verification from the servicemember's commanding officer regarding the servicemember's current or future military duty status. In the case of a motor vehicle lease, the servicemember must also return the vehicle within 15 days of providing notice of the termination.<sup>71</sup> For a motor vehicle lease, the termination is effective once the servicemember gives proper notice and returns the vehicle.

**Telecommunication, Multichannel Video Programming, and Internet Access Contract Termination.**<sup>72</sup> Under the SCRA, a servicemember may terminate contracts for commercial mobile service, telephone service, multichannel video programming, or internet access any time after the date a servicemember receives military orders to relocate for a period of at least 90 days to a location "that does not support the contract."<sup>73</sup> A servicemember may terminate such a contract by delivering to a service provider: a written or electronic notice of the termination, a copy of the relevant military orders, and the date of termination. Such terminations are not subject to early termination charges. Additionally, the provider cannot impose reinstatement charges if service is reinstated within 90 days from the last day of the relocation. Servicemembers remain liable for the return of provider-owned equipment and any charges incurred prior to termination.

In the case of mobile phones in a family plan, the individual who entered into the service contract may terminate the relocating servicemember's part of the contract and all parts covering beneficiaries who are relocating with the servicemember. Additionally, in the case of

mobile phones and telephone terminations, if a servicemember's relocation is three years or less, and the servicemember resubscribes to the service within 90 days of the return from relocation, the service provider shall allow the servicemember to keep the phone number.<sup>74</sup>

**Protections in Tax Enforcement Proceedings.**<sup>75</sup> Under the SCRA, personal or real property used by a servicemember, dependents, or employees for dwelling, professional, business, or agricultural purposes cannot be sold to enforce payment of a tax or assessment that falls due and remains unpaid before or during a period of military service, except by court order. A court order allowing the sale of the servicemember's property will only be issued if the court finds that the servicemember's military service does not materially affect his or her ability to pay the unpaid tax.

A court may stay proceedings to enforce the collection of a tax or proceedings for the sale of a servicemember's property. The stay may run for the duration of the servicemember's military service and up to 180 days after their release from military service.

If a court issues an order allowing the sale of a servicemember's property and the property is indeed sold to enforce the collection of a tax obligation, the servicemember still has the right to redeem such property during the period of military service and for up to 180 days following release from military service, unless state law provides for a longer period.

### **Penalties and Remedies**

Any person aggrieved by a violation of the SCRA may bring a civil action against the violator to obtain any appropriate equitable or declaratory relief with respect to the violation and recover all other appropriate relief, including monetary damages.<sup>76</sup> Recovery may also include court costs and reasonable attorneys' fees at the court's discretion.<sup>77</sup>

The U.S. Attorney General may bring a civil action against any person who repeatedly violates the SCRA or who commits a violation of the SCRA raising an issue of "significant public importance."<sup>78</sup> Available relief includes any equitable or declaratory relief appropriate to the violation(s); an award of any other appropriate relief, including monetary damages, to any person

<sup>70</sup> 50 U.S.C. § 3955(b)(2) (2024).

<sup>71</sup> 50 U.S.C. § 3955(c)(1) (2024).

<sup>72</sup> 50 U.S.C. § 3956 (2024).

<sup>73</sup> *Id.*

<sup>74</sup> 50 U.S.C. § 3956(c) (2024).

<sup>75</sup> See 50 U.S.C. § 3991 (2024); see also *SCRA Benchbook*, *supra* note 50, at 67-69.

<sup>76</sup> 50 U.S.C. § 4042(a) (2024).

<sup>77</sup> 50 U.S.C. § 4042(b) (2024).

<sup>78</sup> 50 U.S.C. § 4041(a) (2024).



aggrieved by the violation(s); and civil penalties not to exceed \$55,000 for a first violation or \$110,000 for subsequent violations.<sup>79</sup> Some recent cases filed by DOJ relating the SCRA are accessible through the DOJ website: <https://www.justice.gov/servicemembers/cases>.

## State-Level Legislation

From the states' perspective, one of the major shortcomings of the SCRA is that it does not protect members of the National Guards serving under state, rather than federal, authority. Some states have taken action to remedy that shortcoming.<sup>80</sup> States have taken varying legislative approaches to incorporating SCRA protections into state law, so it is important to review the state laws that may be applicable to a given situation. Delineating the particular contours of various states' legislation is beyond the scope of this manual, but citations are provided for ease of reference in Table 1 on page 12.

Some states may also prosecute SCRA violations as violations of state consumer protection laws. Oregon, for instance, passed legislation explicitly declaring a violation of the SCRA to be an unlawful business practice for the purposes of its unlawful trade practices statute.<sup>81</sup> Further, states with broad consumer protection laws which define unfair or deceptive acts or practices to include any unlawful business practices may be able to prosecute SCRA violations under that authority.<sup>82</sup>

## SCRA Resources

A variety of resources exist to help practitioners and servicemembers understand servicemembers' rights under the SCRA.

- First and foremost, Col. John S. Odom Jr.'s "Judge's Benchbook for the Servicemembers Civil Relief Act"<sup>83</sup> provides a clear yet thorough explanation of virtually all aspects of the SCRA. Col. Odom's Benchbook also includes samples of military orders and letters requesting a stay of proceedings, among other illustrative materials.

- The American Bar Association provides an overview of SCRA on its website adopted from Col. Odom's Benchbook and "The Judge Advocate General's School Guide to the Servicemembers Civil Relief Act," published by the ABA in 2007: [https://www.americanbar.org/groups/legal\\_services/milvets/aba\\_home\\_front/information\\_center/servicemembers\\_civil\\_relief\\_act/overview/](https://www.americanbar.org/groups/legal_services/milvets/aba_home_front/information_center/servicemembers_civil_relief_act/overview/).
- The Department of Justice's Servicemembers and Veterans Initiative provides information for servicemembers, veterans and their family members, and legal practitioners at: <https://www.justice.gov/servicemembers>.
- Military OneSource is a program funded by the Department of Defense which has a number of resources to aid current and recently separated servicemembers. It provides various resources, including an overview of SCRA benefits: <https://www.militaryonesource.mil/benefits/servicemembers-civil-relief-act/>.

<sup>79</sup> 50 U.S.C. § 4041(b) (2024).

<sup>80</sup> All state statutes other than Florida's and Texas's are applicable to the National Guard. Protections under Florida statutes include governor-ordered National Guard call-ups, but only if the service exceeds 17 days. Fla. Stat. § 250.5201(3) (2024). Protections under Texas covers "a person serving in the United States Armed Forces during time of war." Tex. Civ. Prac. & Rem. Code § 16.022 (2023).

<sup>81</sup> See Or. Rev. Stat. § 646.608(1)(LLL) (2023).

<sup>82</sup> See, e.g. Cal. Bus. & Prof. Code § 17200 (2024).

<sup>83</sup> SCRA Benchbook, *supra* note 50, at 40.



**Table 1: State-Level Legislation**

State	Citation
Alabama	Ala. Code § 31-12-2
Alaska	Alaska Stat. § 26.05.135
Arizona	Ariz. Rev. Stat. § 26-168
Arkansas	Ark. Code §§ 12- 62-701 to 12- 62-718
California	Cal. Mil. & Vet. Code §§ 400 to 409
Colorado	Colo. Rev. Stat. §§ 28-3-1401 to 28-3-1407
Connecticut	Conn. Gen. Stat. 27-34a
Delaware	Del. Code tit. 6, §2501D-2509D
District of Columbia	D.C. Code §§ 42-3405.03a, 50-1401.02
Florida	Fla. Stat. §§ 250.5201 to 250.5205
Georgia	Ga. Code §§ 46-5-8, 44-7-22, 40-5-37
Hawaii	Haw. Rev. Stat. §§ 521-83, 657D-1 to 657D-7
Idaho	Idaho Code § 46-409
Illinois	735 Ill. Comp. Stat. §§ 5/15-1501.5, 5/15-1501.6 (mortgage protection) 330 Ill. Comp. Stat. §§ 63/1 to 63/975 (additional provisions)
Indiana	Ind. Code § 10-16-7-23
Iowa	Iowa Code §§ 29A.90 to 29A.105
Louisiana	La. Rev. Stat. §§ 29:311 to 29:319
Kentucky	Ky. Rev. Stat. § 38.510
Maine	Me. Rev. Stat. tit. 37-B, § 389-A
Maryland	Md. Code, Pub. Safety § 13-704
Massachusetts	Mass. Gen. Laws. ch. 33, §13A
Michigan	Mich. Comp. Laws § 600.3285 (mortgage protection only) <sup>81</sup>
Minnesota	Minn. Stat. § 190.055
Montana	Mont. Code §§ 10-1-901 to 10-1-905
Nebraska	Neb. Rev. Stat. § 55-702

State	Citation
Nevada	Nev. Rev. Stat. § 40.439 (mortgage only)
New Hampshire	N.H. Rev. Stat. § 110-C:2
New Jersey	N.J. Stat. §§ 38:23C-1 to 38:23C-26
New Mexico	N.M. Stat. § 20-4-7.1
New York	N.Y. Mil. Law §§ 300 to 328
North Carolina	N.C. Gen. Stat. §127B-28
North Dakota	N.D. Cent. Code § 37-01-43
Ohio	Ohio Rev. Code §§ 5919.29, 5923.12
Oklahoma	Okla. Stat. tit. 44, § 208.1
Oregon	Or. Rev. Stat. §§ 399.238, 399.240, 399.242, 408.440, 646.605, 646.608(LL)
Pennsylvania	51 Pa. Cons. Stat. §§ 4105, 7301 to 7319
Rhode Island	R.I. Gen. Laws § 30-7-10
South Carolina	S.C. Code §§ 25-1-4010 to 25-1-4080
South Dakota	S.D. Cod. Laws § 33A-2-9
Tennessee	Tenn. Code § 26-1-111 (mortgage only)
Texas	Tex. Civ. Prac. & Rem. Code § 16.022
Utah	Utah Code §§ 39A-6-101 to 39A-6-117
Vermont	Vt. Stat. tit. 12, § 553 (statute of limitations only)
Virginia	Va. Code § 44-102.1
Washington	Wash. Rev. Code §§ 38.42.010 to 38.42.904
Wisconsin	Wis. Stat. § 321.62
West Virginia	W. Va. Code §15-1F-11
Wyoming	Wyo. Stat. §§ 19-11-102 to 19-11-124

<sup>84</sup> Michigan has passed a number of laws that provide SCRA-type protection to their active duty and reserve servicemembers and their National Guardsmen while deployed. See, e.g., Mich. Comp. Laws 445.1011 to 445.1016 (2024) (permits a servicemember or spouse to terminate a motor vehicle lease); Mich. Comp. Laws 484.1901 to 484.1907 (2024) (permits servicemembers to terminate cell phone contracts); Mich. Comp. Laws 600.3185, 600.3285 (2024) (provides foreclosure protections to servicemembers); Mich. Comp. Laws 32.517 (2024) (provides protections against repossession and stays).

# Consumer Protection



Credit—Airman Dillon Parker, VIRIN 171202-F-XN660-009

## **PREVENTING CONSUMER FRAUD BY IDENTIFYING COMMON SCHEMES, UNDERSTANDING THE APPLICABLE LEGAL FRAMEWORK, AND PROVIDING EDUCATIONAL AND FINANCIAL RESOURCES FOR SERVICEMEMBERS AND VETERANS**

Military servicemembers and veterans are prime targets for consumer frauds and scams. Servicemembers and veterans present an appealing target for a variety of reasons. Many servicemembers are young and inexperienced in financial matters but earn a steady income that attracts financial predators. Scammers can determine precisely how much income servicemembers make just by looking at the rank on their uniforms. Scammers know that servicemembers fear career repercussions for falling into debt and are less likely to report abusive practices. Financial predators realize that military culture tends to make servicemembers and veterans want to solve their financial problems on their own rather than seek help from regulators. Furthermore, scammers know that if they can turn a servicemember into a debtor, they can sometimes use the military allotment system to ensure that they are paid.<sup>85</sup>

<sup>85</sup> Allotments of pay are provided to help servicemembers adjust their personal

*The personal hardships suffered by servicemembers, and the time and energy servicemembers must spend to ameliorate financial exploitation, impair overall military mission readiness. Veterans subject to recall to active duty at any time should also not have to deal with financial stresses caused by consumer frauds.*

*Servicemembers and veterans deserve to be rewarded for their service, not disproportionately targeted for financial victimization. This Section aims to enhance prevention and enforcement efforts in consumer protection by identifying common schemes targeting servicemembers and veterans, providing an overview of the relevant legal framework, and identifying resources to which servicemembers and veterans can be directed to help them manage their finances.<sup>86</sup>*

and family finances to military service. Allotments are a definite portion of a member's pay and allowances and are authorized to be made payable to a qualified person or institution. Allotments of active-duty servicemembers may not be utilized to purchase, lease or rent personal property. For more, see *Military Allotments*, Defense Finance and Accounting Service, <https://www.dfas.mil/MilitaryMembers/paydeductions/allotments/> and *Deductions, Allotments, and What Comes Out of Your Military Pay*, Military OneSource, (Aug. 23, 2024), <https://www.militaryonesource.mil/military-basics/new-to-the-military/military-pay-deductions-and-allotments/>.

<sup>86</sup> For further information for servicemembers and veterans on common frauds and scams, see Michael S. Archer, *Ripped Off!: A Servicemember's Guide to Common Scams, Frauds, and Bad Deals* 195, 297 (2014) [hereinafter "Ripped Off?"].



## Identifying Common Schemes

When it comes to preventing unfair and deceptive business practices, the educated consumer is the first line of defense. An essential step in educating consumers is identifying common schemes about which consumers should be wary. Servicemembers and veterans are no less vulnerable to the same types of scams and frauds that affect civilians every day, but some scams and frauds target servicemembers and veterans at higher rates. This Section identifies the types of scams and predatory practices that commonly affect servicemembers and veterans, including sales-, lending-, and credit-related scams; automobile-related scams; VA benefits frauds; charities frauds; identity theft; and certain misleading marketing practices.

### **Sales-, Lending, and Credit-Related Scams**

Sales-, lending-, and credit-related scams are some of the most detrimental consumer pitfalls faced by servicemembers and veterans. A common thread among most of the following schemes is the goal of forcing servicemembers or veterans into a cycle of debt allowing a lender to collect staggering amounts of interest, which is oftentimes hidden in the transaction itself. Scammers and other unscrupulous actors use several different methods to accomplish this goal, including through consumer product financing agreements; small dollar, high interest loans; and catalog, internet, and phone “sales.” Credit repair schemes go hand-in-hand with these scams by offering (often fraudulently) to erase the bad marks on servicemembers’ or veterans’ credit reports caused by the cycle of debt. This Section provides a general overview of how these scams operate.

### **Product Financing Agreements**

Servicemembers have become prime targets for predatory retailers utilizing deceptive product financing agreements to saddle victims with burdensome debt obligations. The fraudulent practices in this context are numerous. Examples of common sales practices are price gouging; falsely representing that a product is new when it is a return or defective; claiming that a product is a great deal when in fact it is marked up well over its manufacturer’s suggested retail price or typical selling price; concealing additional costs and contract terms; and advertising 0% financing but actually charging a substantial annual percentage rate.<sup>87</sup> Unscrupulous retailers selling a

variety of products—from furniture to jewelry to electronics—utilize these practices to take advantage of servicemembers.

Typically, servicemembers are not asked to pay for these items upfront, but rather are immediately steered to complete a financing agreement in order to make a purchase. These transactions are fairly easy to spot, with products being predominantly offered on a “per payday” price. Financing is typically offered through what appears to be a third-party financing company, but in reality is an in-house or closely related party. Making matters worse for servicemembers and their families, retailers typically persuade or require servicemembers to set up an automatic withdrawal from a bank account to trap the servicemember into making payments under the contract.<sup>88</sup> The autopayment allows the retailer to draw directly from the servicemember’s account, guaranteeing payment for the retailer and making it more difficult for servicemembers both to appreciate how much they are paying in the long term and to stop payments. Given that the products are often vastly overpriced and that the agreements are riddled with hidden costs, suspect product “warranties,” or both, these product financing agreements can be extremely costly for servicemembers and their families despite a “low” per-pay-period price tag.

### **Small-Dollar, High-Interest Loans**

Small-dollar, high-interest loans, such as payday loans, vehicle title loans, and tax refund anticipation loans, are notoriously risky for borrowers. These are short-term loans typically priced at a fixed-dollar fee, which represents the finance charge to the borrower. These loans are usually made to borrowers experiencing cash flow difficulties.<sup>89</sup> Although the fixed-dollar fees may not seem too costly at first glance (usually tens of dollars on a several-hundred dollar loan), when translated to an annual percentage rate, the charges can amount to a 300-1,000% interest or more.<sup>90</sup> Borrowers thus face high interest rates even if loans are timely repaid and further risk facing staggering interest if they are unable to repay on time. Making matters worse, borrowers are often unable to repay their loans and instead roll over their balance and pay additional finance charges. For many of the reasons discussed at the beginning of this Section regarding what makes servicemembers and veterans appealing targets for consumer fraud, servicemembers are aggressively targeted by small-dollar, high-

<sup>87</sup> *Soldiers as Consumers: Predatory and Unfair Business Practices Harming the Military Community Hearing Before the S. Comm. On Commerce, Science, & Transportation*, 113th Cong. 1-2 (Nov. 20, 2013) (statement of Robert E. Cooper, Attorney General, State of Tennessee), <https://www.govinfo.gov/content/pkg/CHRG-113shrg89464/html/CHRG->

[113shrg89464.htm](https://www.govinfo.gov/content/pkg/CHRG-113shrg89464/html/CHRG-113shrg89464.htm) [hereinafter “Cooper Testimony”].

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *See id.*

interest lenders. Indeed, areas immediately surrounding military installations are often flooded with payday lenders, car title lenders, and other businesses offering small-dollar, high-interest loans.

The Military Lending Act, discussed below on page 23, imposes a cap of 36% on the Military Annual Percentage Rate on covered loans, including payday loans. Furthermore, some states have banned payday loans entirely.<sup>91</sup>

### **Catalog, Internet, and Phone "Sales"**<sup>92</sup>

Catalog sales, internet service sales, and phone card sales are substantially similar scams in which a victim agrees to pay—usually by writing a check—a sum of money in the future in exchange for a “rebate” of cash and a product or service which, in reality, is largely worthless. To illustrate, a catalog sales scam investigated by the National Consumer Law Center (NCLC) in Georgia operated as follows: a victim would write a check for \$455.00, to be cashed by the catalog company on the victim’s next payday. In exchange, the victim received \$350.00 cash and \$105.00 worth of certificates to be used to purchase items from the seller’s catalog. However, the items in the catalog were so overpriced that the certificates were virtually worthless. Further, sources indicated that the certificates were almost never cashed.

Internet service and phone service sales operate in a similar manner. Instead of writing a check up front, a victim commits to purchase internet service or phone cards for a period of time. In addition to the internet or phone services purchased, the victim receives a cash “rebate” in exchange for the commitment. Much like the items in the catalogs previously discussed, the internet and phone services are vastly overpriced compared to those readily available from legitimate service providers.<sup>93</sup>

The NCLC concludes that these scams are, in reality, thinly veiled high-priced loans. Because the ser-

vices are vastly overpriced or—as is often the case with catalog certificates—completely worthless, the cash “rebate” is the true benefit of the transaction for the victim. Often, the offered merchandise may be hard to comparison shop for. Servicemembers should be certain to understand the true value of the items, rather than taking assurances that it is a “good deal” or “good value.” The payments required in these scams, however structured, are equal to an extremely high-interest loan repayment.<sup>94</sup>

### **Credit Repair Schemes**

Credit repair services are rife with fraud and misrepresentations regarding the help they can actually provide. In reality, there is very little that can be done to retrospectively improve a person’s credit. Credit repair services, however, often promise to do just that. Credit repair services usually operate through one of two methods: promising to use the verification process to remove negative items from a credit report or offering a new credit identity.<sup>95</sup> These credit repair schemes are particularly seductive to military members because, in the modern military, almost all duties require a security clearance and credit problems are the primary source of denials of these clearances.

If a credit-reporting agency cannot verify an item on an individual’s credit report, it must delete it. Verification-based services work simply by disputing items on a credit report. However, under the Fair Credit Reporting Act (FCRA), any person can file a dispute directly with the credit reporting agencies. Verification is largely automated and will only succeed if the disputed item is truly in error. Thus, in many cases, these verification services are scams asking customers to pay for a free service that is unlikely to succeed. Servicemembers should be particularly wary of any credit repair offer where the service provider insists on payment up front, tells the servicemember not to contact the credit reporting agencies directly, tells the servicemember to dispute accurate information, or fails to explain the servicemember’s legal rights under the FCRA.<sup>96</sup>

Services promising a new credit identity are even more nefarious — they attempt to hide a person’s credit history by urging a person to apply for credit with something other than his or her own social security number. These services may advise customers to begin applying for credit with a Credit Privacy Number (CPN) provided by the service. The CPN is typically a stolen social securi-

<sup>91</sup> The following jurisdictions have “laws that prohibit payday loans or set low interest rate limits”: Arizona, Arkansas, Connecticut, Georgia, Illinois, Maryland, Massachusetts, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, South Dakota, Vermont, Washington, D.C. and West Virginia. Alex Horowitz, *How Well Does Your State Protect Payday Loan Borrowers?*, Pew Charitable Trusts (July 26, 2022), <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2022/how-well-does-your-state-protect-payday-loan-borrowers>.

<sup>92</sup> *In Harm’s Way – At Home: Consumer Scams and the Direct Targeting of America’s Military and Veterans*, National Consumer Law Center 8-9 (May 2003), [https://www.nclc.org/images/pdf/special\\_projects/military/report-scams-facing-military.pdf](https://www.nclc.org/images/pdf/special_projects/military/report-scams-facing-military.pdf) [hereinafter “*In Harm’s Way*”].

<sup>93</sup> *Id.* at 9, 42-43.

<sup>94</sup> *Id.* at 42-43.

<sup>95</sup> *Credit Repair Scams*, Federal Trade Commission, <https://www.ftc.gov/news-events/topics/consumer-finance/debt-relief-credit-repair-scams>.

<sup>96</sup> 15 U.S.C. §§ 1681 (2024).

ty number, the use of which amounts to identity theft. Alternatively, the service may advise a servicemember to obtain an Employer Identification Number (EIN) from the IRS and use that on credit applications. It is also a federal crime to obtain an EIN under false pretenses.<sup>97</sup>

Both of these credit repair schemes are unlawful under the Credit Repair Organizations Act (CROA). The CROA prohibits untrue or misleading representations of the services of the credit repair organization, which prohibits credit repair services from overstating what can be accomplished through the verification process.<sup>98</sup> The CROA also makes it unlawful to alter a consumer's identity or advise a consumer to do so for the purposes of preventing the display of the consumer's credit history.<sup>99</sup> The CROA prevents a credit repair agency from demanding or receiving payment prior to its full performance of the offered service.<sup>100</sup> Finally, the CROA requires a credit repair servicer to provide any potential customer with a written statement outlining the customer's credit file rights under state and federal law.<sup>101</sup>

The CROA allows victims of credit repair organizations operating in violation of the act to recover actual and punitive damage as well as attorneys' fees.<sup>102</sup> Violations of the CROA are also per se violations of the FTC Act, thus invoking all the enforcement powers of the Federal Trade Commission.<sup>103</sup> The states additionally have the authority to sue under the act to enjoin violations or recover actual and punitive damages on behalf of the victim of a violation, as well as costs and attorneys' fees.<sup>104</sup>

Another form of credit repair scam is when a business suggests that transacting with them will actually improve or build a servicemember's credit. In these cases, the pitch will be that it is in the servicemember's best interest to, for example, sign a financing agreement or "plan" with the business, and that the business will report to the credit bureau every month to build the servicemember's credit which will supposedly enable the servicemember to purchase other high-priced items like vehicles at a better financed rate. By luring the servicemember with promises of improved credit, these businesses deceive servicemembers about the merits of the immediate transaction—usually a contract with hidden interest and overpriced goods. Once the servicemember has signed on the dotted line, they are trapped into payments

for the remainder of the term or risk having their credit tarnished with the monthly reporting. These agreements operate as a security for the vendor and a shackle for the servicemember.

## Automobile Purchase Scams

Automobile purchases are a major life decision and an essential purchase in many areas. As with many big-ticket items, automobile sales are often accomplished through complicated, long-term financing agreements. The nature of these transactions allows frequent opportunities for abuse. Three types of scams are particularly common: "buy here, pay here" dealerships, "yo-yo sales," and "phantom sales."

**Buy Here, Pay Here Dealerships.** "Buy here, pay here" used car dealerships target those with poor credit; they charge high monthly payments which often lead the buyer to default, allowing the dealer to repossess and resell the vehicle. Dealers sell old used cars for a large down payment, often equal to the objective value of the car, plus monthly or bi-weekly payments for the remainder of the purchase price.<sup>105</sup> Interest rates on the remainder can reach 30% APR or more.<sup>106</sup> When a buyer defaults on a payment—which roughly 25% of buyers do—the dealer repossesses the vehicle and simply resells it to another vulnerable customer. The NCLC identified one dealership in South Carolina which had sold the same vehicle 18 times.<sup>107</sup> (Although "buy here, pay here" dealerships can and do target any and all vulnerable consumers, they are often found near military installations.)<sup>108</sup>

These types of dealerships are also often utilizing out-of-state banks or financiers. Many times the dealer may claim there is a "discount" for using a bank terminal or in-house lender provided at the dealership, but the dealer may be doing so only to avoid interest rate caps or receive financial incentives from the lender itself.<sup>109</sup> Consumers should be wary of these practices, make sure they understand the terms of any loan, and take the time to shop with reputable bankers. These dealerships may also add junk fees into a contract or switch to a higher purchase price at the last moment, explaining these addition-

<sup>105</sup> *In Harm's Way*, *supra* note 92, at 41.

<sup>106</sup> See, e.g., Ken Bensinger, *A Vicious Cycle in the Used-Car Business*, Los Angeles Times (Oct. 30, 2011), [www.latimes.com/business/buy-here-pay-here/la-fi-buy-here-pay-here-part1-storyb-story.html](http://www.latimes.com/business/buy-here-pay-here/la-fi-buy-here-pay-here-part1-storyb-story.html).

<sup>107</sup> *In Harm's Way*, *supra* note 92, at 41.

<sup>108</sup> See *id.* at 40-41.

<sup>109</sup> For example, the New York State Department of Financial Services took steps to prevent a military lending company from charging servicemembers from out of state interest at a rate more than double the state's caps. Julia Botero, "New York cracks down on predatory lenders targeting Fort Drum troops," North County Public Radio (July 7, 2015), <http://www.northcountypublicradio.org/news/story/28864/20150707/new-york-cracks-down-on-predatory-lenders-targeting-fort-drum-troops>.

<sup>97</sup> 26 U.S.C. §§ 7202-06 (2024).

<sup>98</sup> See 15 U.S.C. § 1679b(a)(3)-(4) (2024).

<sup>99</sup> See 15 U.S.C. § 1679b(a)(2) (2024).

<sup>100</sup> See 15 U.S.C. § 1679b(b) (2024).

<sup>101</sup> See 15 U.S.C. § 1679c (2024).

<sup>102</sup> See 15 U.S.C. § 1679g (2024).

<sup>103</sup> See 15 U.S.C. § 1679h(a)-(b) (2024).

<sup>104</sup> See 15 U.S.C. § 1679h(c) (2024).



al costs as a function of the financing.<sup>110</sup> In reality, they are merely predatory business practices.

**Yo-Yo Sales.** A “yo-yo” sale is a form of bait and switch which takes advantage of the accepted practice of spot delivery in automobile sales. A spot delivery sale is an automobile sale wherein the purchaser signs a tentative financing agreement and takes the vehicle off the lot pending credit approval for the agreed-upon terms.<sup>111</sup> In a yo-yo sale, an unscrupulous dealer will inform the buyer a few days after they have completed the sale and taken the car home that the buyer’s credit has not been approved and they will have to make a concession in the form of a higher interest rate, higher monthly payment, higher down payment, or some combination thereof. If a buyer traded in their original vehicle as part of the sale, the dealer will often claim that the trade-in has already been sold and the buyer will not be able to recover the value of the trade-in if they want to keep the original terms of the deal.<sup>112</sup>

In order to avoid being the victim of a yo-yo sale, a buyer should not pay a down payment, hand over the keys to a car, sign a purchase agreement, or drive the new car off the lot until financing is finalized.<sup>113</sup> Alternatively, if the buyer urgently needs the vehicle, they should insist in advance on a written assurance that, if the financing should fall through, the deposit and trade-in will be returned; or, if credit terms change, they will be allowed to cancel the deal.<sup>114</sup>

**Phantom Sales.** As virtual scams and online sales become more prevalent, there has been a notable rise in scams in which there is no vehicle at all.<sup>115</sup> Servicemembers have been targeted online with advertisements linking a popular vehicle with a reputable, trusted institution like Army and Air Force Exchange Service (AAFES), or a look-alike name so similar that it may be confused with AAFES or a well-known online vendor. Servicemembers are lulled into a sense of comfort, recognizing a trusted institution, and then are lured into sending a deposit or hefty down payment via cash card or wire transfer. It is only thereafter that the scam is revealed—no vehicle exists. Many scams like this are operated from outside the country, making recovery of the lost funds virtu-

ally impossible. Servicemembers should be aware that AAFES does not conduct business in this manner, but fraudsters are happy to mislead the vulnerable. Here are tips consumers can use to avoid being caught in a phantom car sale:

- Do not rush;
- Avoid transactions where the seller won’t meet in person or allow you to inspect the vehicle;
- Never pay any portion of the cost with gift cards or wire transfers;
- Back away if the cost increases due to “fees” after the sale; and

Verify that the VIN provided matches the description of the vehicle you are looking at. Phantom vehicles can look very real, so it is important for consumers to make certain that they are real and that the seller is legitimate.<sup>116</sup>

### ***Schemes Targeting Veteran Pensions***

Military veterans may be entitled to receive a wide variety of pensions, which can be derived from a number of different sources, each requiring satisfaction of their own criteria. These pensions range from several length-of-time-served-related retirement pensions to medical retirements for careers cut short by an illness or injury that prevents the continued proper performance of military duties.

Many veterans qualify for a host of post-service benefits from the U.S. Department of Veterans Affairs (VA), including two other types of pensions. The first of those is the service-connected pension, more commonly known as the VA disability pension, for permanent injuries incurred as a result of service. The other is the non-service-connected pension, more commonly known as the Aid and Attendance or Housebound Pension, which is a needs-based pension for low-income wartime veterans and their surviving spouses.

Some veterans qualify for both a length-of-time served retirement pension and a service-connected pension. These pensions can range from a few hundred dollars a month to thousands.

Unscrupulous actors see these government pensions as an opportunity to make a quick buck at the expense of their beneficiaries. A number of schemes have

<sup>110</sup> *Signs of Predatory Auto Finance Loans*, Center for Responsible Lending, <https://www.responsiblelending.org/issues/signs-predatory-auto-finance> [hereinafter *Predatory Auto Finance Loans*].

<sup>111</sup> *Spot Delivery Pitfalls*, Governor’s Office of Consumer Protection, <http://consumer.georgia.gov/consumer-topics/spot-delivery-pitfalls>.

<sup>112</sup> *In Harm’s Way*, *supra* note 92, at 41.

<sup>113</sup> *See Ripped Off*, *supra* note 86, at 195.

<sup>114</sup> *Predatory Auto Finance Loans*, *supra* note 96.

<sup>115</sup> Colleen Tressler, *Put the brakes on phony online car sales*, FTC Consumer Information (Jun. 17, 2019), <https://www.consumer.ftc.gov/blog/2019/06/put-brakes-phony-online-car-sales>.

<sup>116</sup> *Id.*

emerged in this area, each with the potential to become very lucrative businesses. Some of the more common schemes are described below.

### **“Claims Sharks”**

To ensure veterans received “responsible, qualified representation”<sup>117</sup> and assistance when applying for VA benefits, federal laws and regulations were created requiring anyone who assists them in preparing, presenting or prosecuting those claims to be properly accredited through the VA Office of General Counsel (OGC).<sup>118</sup> Additionally, those regulations prohibit anyone assisting those veterans filing “initial” claims for benefits from charging those veterans a fee for that assistance.<sup>119</sup>

These particular schemes involve non-VA accredited actors who target veterans seeking to obtain service-connected pensions. Often referred to as “claims sharks,” they avoid VA oversight and accountability by referring to their services as “coaching” or “consulting” rather than representation or assistance. They charge veterans expensive and often burdensome fees for the same services that are offered free of charge from VA “accredited” veteran service officers, claims agents and attorneys.

### **“Advance Funding”<sup>120</sup>**

“Advance funding” schemes, “benefits buyouts,” or “pension advance schemes” are a way in which unscrupulous actors prey on the short-term financial needs of some veterans. In these schemes, bad actors target low-income veterans receiving retirement and/or service-connected pensions. A lump sum payment is offered in exchange for the veteran’s future benefits. In other words, a veteran who is receiving a monthly retirement or service-connected pension, and who needs a quick cash infusion, is lured into trading their monthly veteran’s benefits for a quick one-time cash buyout.

The problem with these schemes is that, in practice, they are most often overwhelmingly terrible financial deals for the veteran. The NCLC conducted several case studies which analyzed the buyouts as loans and found that effective APRs based on the payments made ranged from 39% to over 100% in some cases. Some of these deals were “paid out” by veterans over the course of several years and the costs to the victimized veterans were

staggering. In one particularly egregious example, one veteran gave up a ten-year benefit income of \$302,928 for a lump sum payment of only \$66,100.99.

### **“Bait and Switch Annuities”**

Schemes commonly known as “bait-and-switch annuities” are multi-layered scams. These schemes involve unqualified and unaccredited individuals making presentations to elderly veterans regarding certain pension benefits administered by the VA specifically the Aid and Attendance or Housebound pensions. The presentations, in essence, focus on how elderly veterans can hide their assets in annuities and other financial products in order to artificially qualify for those VA pensions and benefits.<sup>121</sup> These schemes can hurt both the veterans targeted and the pension program as a whole.

Bait and switch annuity scams could potentially harm those targeted in multiple ways. First, and most importantly, the financial products in which veterans are convinced to invest are often inappropriate for their circumstances. Scammers often pitch deferred annuities which leave veterans unable to access their funds during their expected lifetimes without incurring substantial withdrawal fees.<sup>122</sup>

Additionally, due to the VA’s three-year look-back period, some of those financial transactions could not only make the veteran ineligible to receive that pension but could also require the veteran to repay any and all monies previously received. Similarly, Medicaid has a five-year look-back period, and those same asset transfers may result in ineligibility for Medicaid coverage for long-term care.

Furthermore, scammers are often unaccredited<sup>123</sup> and unqualified, and thereby prohibited by law from representing veterans in non-service-connected pension benefits claims.<sup>124</sup> High fees are often charged for this purported service, again a service which VA accredited veterans service organizations, claims agents and attorneys offer for free to qualified veterans.

Accredited attorneys, claims agents, and veterans’ service organizations can be found at <https://www.ebenefits.va.gov/ebenefits/manage/representative>.

<sup>117</sup> 38 C.F.R. §14.629(b) (2024).

<sup>118</sup> 38 U.S.C. § 5904(a) (2024).

<sup>119</sup> Tamar B. Breslauer, *Veterans Accredited Representatives: Frequently Asked Questions*, Congressional Research Service, 2 (June 25, 2020), <https://crsreports.congress.gov/product/pdf/r/r46428>.

<sup>120</sup> *In Harm’s Way*, supra note 92.

<sup>121</sup> *Veterans’ Pensions: Protect Your Money From Poachers*, Federal Trade Commission (Sept. 2013), [https://www.ftc.gov/system/files/documents/public\\_events/597241/pdf-0114-poaching-veterans-pensions.pdf](https://www.ftc.gov/system/files/documents/public_events/597241/pdf-0114-poaching-veterans-pensions.pdf).

<sup>122</sup> *Pension Poaching Prevention: Spot a Scam, Stop a Scam!*, Department of Veterans Affairs (May 2022), <https://benefits.va.gov/BENEFITS/factsheets/limitedincome/pension-poaching.pdf>.

<sup>123</sup> *Id.*

<sup>124</sup> 38 CFR § 14.629(b) (2024).

Accreditation status of entities can be verified at: <http://www.va.gov/ogc/apps/accreditation/index.asp>.

## Charities Frauds

Servicemembers and veterans are often the *subject* as well as the *target* of charities frauds. Because servicemembers and veterans engender a great deal of support from the public, charities and non-profit organizations that advance the interests of servicemembers and veterans are often well-supported by the public as well. Taking advantage of the public's support of the military, some predators create fraudulent charitable organizations and make false representations as to the work they do on behalf of servicemembers. Some charities falsely purport to benefit servicemembers and veterans while their organizers simply pocket the donations or spend them on unreasonably high administrative costs.

The military charity scene can be flooded with these bad actors, but finding legitimate charities is not impossible. Legitimate charities serve an important role, and those interested in supporting them should not be discouraged from donating. The attorneys general can provide their constituents—both military and civilian—with some helpful tools and tips on how to differentiate between legitimate and fraudulent charities.

### Signs of a Charity Scam

Consumer protection groups and the FTC in particular have identified a number of warning signs indicating that a charity or charitable solicitation may be fraudulent. The FTC has identified the following red flags that should alert potential donors that a charity or fundraiser is probably not legitimate:<sup>125</sup>

- Refusing to provide detailed information about a charity's identity, mission, costs, or how donations will be used;
- Failing to provide proof that the IRS has deemed contribution to be tax deductible;
- Using a name that closely resembles that of a well-known, reputable organization;
- Receiving an acknowledgement for a pledge which was not made;
- High-pressure tactics such as urging immediate

donation, without giving time for a potential donor to think about it and do research;

- Requesting that donations be in cash or be wired;
- Offering to send a courier or overnight delivery service to collect the donation immediately; and
- Guarantees that sweepstakes winnings will be given in exchange for a contribution. (By law, donations are never required to be eligible to win a sweepstakes.)

### Steps to Take in Connection with a Donation

Consumers wishing to make a charitable donation should conduct some research and make sure to make an informed decision even when a charity or fundraiser does not raise any of the red flags discussed above. Before making any donation to any charity, the FTC suggests that prospective donors do the following:<sup>126</sup>

- Ask for detailed information about the charity, including name, address, and telephone number;
- Search the name of the organization online—especially with the word “complaint(s)” or “scam”—to learn about its reputation;
- Check if the charity is trustworthy by contacting a charity watchdog group such as the Better Business Bureau's Wise Giving Alliance,<sup>127</sup> Charity Navigator,<sup>128</sup> Charity Watch,<sup>129</sup> or GuideStar;<sup>130</sup>
- Check with the Internal Revenue Service to find out if the organization is eligible to receive tax-deductible donations;<sup>131</sup> and
- Refuse to provide a credit or check card number, bank account number, or any personal information until thoroughly researching a charity.

<sup>125</sup> Checklist taken from *Avoid Donating to a Fake Charity*, Federal Trade Commission (May 2021), <https://consumer.ftc.gov/articles/giving-charity#avoid>.

<sup>126</sup> Checklist taken from *Before Giving to a Charity*, Federal Trade Commission, <https://consumer.ftc.gov/articles/giving-charity>.

<sup>127</sup> *Wise Giving Guide*, BBB Wise Giving Alliance, <https://give.org/wise-giving-guide>.

<sup>128</sup> Charity Navigator, <http://www.charitynavigator.org/>.

<sup>129</sup> Charity Watch, American Institute of Philanthropy, <http://charitywatch.org/>.

<sup>130</sup> GuideStar, <http://www.guidestar.org/>.

<sup>131</sup> See Exempt Organizations Select Check, Internal Revenue Service (Feb. 27, 2023), <http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check>.



When dealing with a charitable solicitation, the FTC also suggests that constituents ask if the solicitor is a paid fundraiser. If so, constituents should:<sup>132</sup>

- Ask the name of the charity they represent and conduct the steps above before committing to any donation;
- Ask what percentage of donations goes to the charity and what percentage goes to the fundraiser;
- Call the charity and find out if the organization is aware of the solicitation and has authorized the use of its name; and
- If a donation request comes from a group claiming to help the local community—e.g., local police or firefighters—ask the local agency if it has heard of the group and is getting financial support.

After conducting the necessary research and deciding to donate, a donor must still be careful with the form of their donation. When making a charitable donation, donors should:<sup>133</sup>

- Never send cash donations. For security and tax purposes, it is best to pay by check (made payable to the charity, not a solicitor) or credit card; and
- Never wire money. Scammers request donations to be wired because wiring money is like sending cash; once it is sent it cannot be recovered.

## Identity Theft

Identity theft is one of the most common consumer protection issues in America. The Federal Trade Commission alone receives hundreds of thousands of identity theft complaints each year; indeed, more than 19% of all consumer complaints collected by the FTC in 2023 concerned identity theft.<sup>134</sup> The FTC has helpful information on preventing and recovering from identity theft on its website, <https://www.identitytheft.gov/>. Servicemembers, veterans, and their families are no less vulnerable to identity theft than the general population. This section provides a brief overview of what identity theft is and outlines some steps servicemembers can take to protect themselves.

<sup>132</sup> Checklist taken from *Before Giving to a Charity*, *supra* note 126.

<sup>133</sup> *Id.*

<sup>134</sup> *Consumer Sentinel Network Data Book 2023*, Federal Trade Commission 7 (Feb. 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/CSN-Annual-Data-Book-2023.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Annual-Data-Book-2023.pdf).

## Operation

Identity theft happens when someone steals another person's personal information (i.e., Social Security number, financial account information, or credit card information) and uses it without permission.<sup>135</sup> Identity theft can wreak havoc on a victim's finances, credit history, and reputation.<sup>136</sup> Identity thieves can drain their victim's bank account, run up charges on his or her credit cards, open new utility accounts, or get medical treatment on their victim's health insurance.<sup>137</sup>

Identity thieves can be very "resourceful" in their methods of obtaining personal information. Scammers have hacked into hundreds of large business databases since the early 2000s and obtained millions of consumers' personal and financial information.<sup>138</sup> These "data breaches" expose consumers' information to misuse by "high tech" identity thieves. Identity thieves may be "low-tech" as well. They will rummage through garbage at individual residences, businesses, and public dumps looking for discarded personal information. Other scammers will engage in "phishing" by contacting consumers directly by email or phone to try to trick potential victims into revealing personal information by pretending to work for legitimate companies, credit card companies or banks, gas or electric utilities, government agencies like the IRS or local courts or law enforcement.<sup>139</sup>

If you receive a notice that your information has been the subject of a data breach, the FTC offers tips for consumers, depending on the type of information exposed.<sup>140</sup> You should cancel any account that has been accessed or used by an identity thief. You should also place a fraud alert on your credit report as discussed below. Apart from receiving a data breach notice, there are many "red flags" indicating that one may have been a victim of identity theft. According to the FTC, these signs include:<sup>141</sup>

- Bank account withdrawals that cannot be explained;
- Non-receipt of bills or other mail;
- Merchants refusing to accept personal checks;

<sup>135</sup> *What To Know About Identity Theft*, Federal Trade Commission (Apr. 2021), <https://consumer.ftc.gov/articles/what-know-about-identity-theft>.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *List of data breaches*, Wikipedia, [https://en.wikipedia.org/wiki/List\\_of\\_data\\_breaches](https://en.wikipedia.org/wiki/List_of_data_breaches).

<sup>139</sup> *What To Know About Identity Theft*, *supra* note 135.

<sup>140</sup> *Data Breach Resources*, Federal Trade Commission, <https://www.ftc.gov/data-breach-resources>.

<sup>141</sup> Checklist taken from *What to Know About Identity Theft*, *supra* note 135.

- Calls from debt collectors about debts that are not owed;
- Unfamiliar/unknown charges on credit cards and unfamiliar accounts on credit reports;
- Medical bills for services not rendered;
- Health plan rejection of legitimate medical claim because benefits limit has been reached;
- Health plan refusal to cover a condition not indicated in medical record;
- IRS notification that more than one tax return was filed under the same name, or that income from an unknown employer has been reported; or
- A report that personal information was compromised by a data breach at a company.

Servicemembers and veterans who begin seeing these signs should immediately begin taking steps to mitigate the potential damage of an identity theft.

### **Mitigation and Prevention**

Identity theft is a crime, and victims should not hesitate to report it to their attorney general, local law enforcement, and the FTC.<sup>142</sup> But there are further steps servicemembers, veterans, and their family members can take to mitigate the damage done by identity theft and to reduce the risk of identity theft occurring in the first place. This Section outlines some of those steps, including exercising rights available under the federal Fair Credit Reporting Act.<sup>143</sup> In some cases, consumers may have more rights under state law. State attorneys general have more information about these additional rights.<sup>144</sup>

**Protect Personal Information.**<sup>145</sup> Servicemembers, veterans, and their family members can make minor lifestyle changes to protect their information. The FTC provides a guide, “Protect Your Personal Information From Hackers and Scammers,” which provides simple steps the average person can take to protect their person-

al information, both on the internet and in everyday life. The guide advises that consumers should:

- Beware of imposters who contact the consumer by text message or email claiming the consumer has an account with them. No one should click on an unexpected email or text. Consumers should instead contact the company by using a phone number or website the consumer knows is real.
- Keep devices secure from hackers by using security software and updating operating systems regularly.
- Use strong passwords or use two-factor authentication to protect online accounts, which can contain a lot of a consumer’s personal information.

Be careful with sharing too much on social networking sites. Identity thieves review consumers’ profiles and pages to discover information that may be used to steal identities and to perpetrate imposter scams like grandparent scams. They review personal sites in order to get information to answer “challenge” questions and establish credibility with the victim.<sup>146</sup>

Following these steps and others found in the FTC guide can help reduce the risk of identity theft.

**Monitor Credit Activity.**<sup>147</sup> Servicemembers, veterans, and their family members should monitor their credit reports to detect fraudulent activity. Everyone is entitled to a free copy of a credit report once a year from each of the three major credit reporting companies. A periodic, thorough review of a credit report for any inaccuracies or suspicious activity, such as unexplained open accounts, can provide a head start on the mitigation process discussed below. Free credit reports can be obtained from <http://www.annualcreditreport.com>.

**Initial Fraud Alert.**<sup>148</sup> If veterans or servicemembers see signs that they or their family may have experienced identity theft, the first step in mitigating potential damage is to file an initial fraud alert with one of the three credit reporting companies. (The credit reporting companies are obligated to notify each other of initial

<sup>142</sup> See *Identity Theft*, U.S. Department of Justice Criminal Division (August 11, 2023), <https://www.justice.gov/criminal/criminal-fraud/identity-theft/identity-theft-and-identity-fraud>.

<sup>143</sup> See *A Summary of Your Rights Under the Fair Credit Reporting Act*, Consumer Financial Protection Bureau, [https://files.consumerfinance.gov/f/documents/bcfrp\\_consumer-rights-summary\\_2018-09.pdf](https://files.consumerfinance.gov/f/documents/bcfrp_consumer-rights-summary_2018-09.pdf).

<sup>144</sup> See Appendix B for contact information for each state and territorial attorney general.

<sup>145</sup> *Protect Your Personal Information From Hackers and Scammers*, Federal Trade Commission (November 2024), <https://consumer.ftc.gov/articles/protect-your-personal-information-hackers-and-scammers>.

<sup>146</sup> *Grandparent Scams Get More Sophisticated*, Federal Communications Commission (March 2023), <https://www.fcc.gov/grandparent-scams-get-more-sophisticated>.

<sup>147</sup> *Free Credit Reports*, Federal Trade Commission (July 2020), <https://www.consumer.ftc.gov/articles/0155-free-credit-reports>.

<sup>148</sup> *Fraud protection tools to help safeguard servicemembers*, Consumer Financial Protection Bureau, [https://files.consumerfinance.gov/f/201508\\_cfpb\\_fraud-protection-tools-to-help-safeguard-servicemembers.pdf](https://files.consumerfinance.gov/f/201508_cfpb_fraud-protection-tools-to-help-safeguard-servicemembers.pdf).

fraud alerts, so requesting an alert with any one of the three companies will be sufficient.) A fraud alert places additional barriers on using a person's identity to acquire credit. When a person's credit report has a fraud alert, businesses must verify the identity of the person applying for a loan or financing, before issuing new credit. Thus, the victim will be contacted by potential creditors to verify the legitimacy of the transaction before the identity thief will actually be able to do any further damage. Initial fraud alerts remain active for 12 months.

**Extended Fraud Alerts.**<sup>149</sup> Depending on the circumstances, a victim of identity theft may also wish to obtain a seven-year "extended fraud alert" or a credit freeze. An extended fraud alert allows a person to obtain two free credit reports within twelve months from each of the three credit reporting companies, and the credit reporting companies must take the person's name off marketing lists for prescreened credit offers for five years. Typically, applying for an extended fraud alert requires that the applicant have first filed a police report or FTC identity theft report. As with initial fraud alerts, the credit reporting companies are obligated to notify each other of extended fraud alerts, so only one company needs to be notified.

**Active Duty Alerts.**<sup>150</sup> A powerful tool available to active duty servicemembers to reduce their risk of identity theft is the active duty alert. Active duty alerts notify potential creditors that the person whose credit report they are viewing is active duty military and require potential creditors to verify the servicemember's identity before issuing credit. With an active duty alert, servicemembers may designate a personal representative such as a spouse, family member, or trusted friend to verify their identity.

Servicemembers can place active duty alerts on their credit report for up to one year at a time, and the alerts can be renewed when they expire.

**Credit Freezes.**<sup>151</sup> A credit freeze prevents any potential creditors from pulling the victim's credit report during the duration of the freeze. Credit freezes are also free under federal law. Unlike fraud alerts, a request for a credit freeze needs to be filed with each credit bureau.

<sup>149</sup> See *Credit Freeze or Fraud Alert: What's Right for Your Credit Report?*, Federal Trade Commission (October 2024), <https://consumer.ftc.gov/articles/credit-freeze-or-fraud-alert-whats-right-your-credit-report> [hereinafter "*Credit Freeze or Fraud Alert*"].

<sup>150</sup> *Protect Your Personal Information From Hackers and Scammers*, Federal Trade Commission (November 2024), <https://consumer.ftc.gov/articles/protect-your-personal-information-hackers-and-scammers>.

<sup>151</sup> *Credit Freeze or Fraud Alert*, *supra* note 149; *Understanding Your Credit*, Federal Trade Commission (November 2024), <https://consumer.ftc.gov/articles/understanding-your-credit>.

Consumers can contact the national credit bureaus to request fraud alerts, active duty alerts, security freezes and opt outs from pre-screened credit offers at:

- Equifax
  - ◇ 1-800-685-1111
  - ◇ <https://www.equifax.com/personal/credit-report-services>
- Experian
  - ◇ 1-888-397-3742
  - ◇ <https://www.experian.com/help/>
- TransUnion
  - ◇ 1-800-680-7289
  - ◇ <https://www.transunion.com/credit-freeze>

## Misleading Marketing Practices

Misleading marketing tactics are an over-arching issue in consumer protection, especially with respect to scams targeting servicemembers and veterans. Through "affinity marketing" and advertising in "military" newspapers, scammers may use false military affiliations to give themselves an air of legitimacy and authority to appeal to servicemembers and veterans.

### Affinity Marketing

Affinity marketing is a tactic that can be used in conjunction with any of the scams previously discussed in this Section. Business entities will adopt military-sounding names or hire former servicemembers to work as salespeople for their products or services. Some salespeople will even falsely claim that they are military retirees.<sup>152</sup> These associations or false claims are meant to impress a sense of legitimacy and authority on potential customers, especially servicemembers. The effect is particularly forceful when former high-level officers are used to sell products and services to more junior servicemembers.<sup>153</sup>

### "Military" Newspapers<sup>154</sup>

Similar to the goal of affinity marketing, some advertising in newspapers such as *ArmyTimes*, *NavyTimes*, *AirForceTimes*, and *MarineCorpsTimes* can prey on the perceived military association for a sense of legitimacy. These newspapers are found on military in-

<sup>152</sup> *Marketing and scams aimed at military communities*, Consumer Financial Protection Bureau [https://files.consumerfinance.gov/f/documents/cfpb\\_ymyg-servicemembers-handout\\_military-affinity-marketing-scams.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ymyg-servicemembers-handout_military-affinity-marketing-scams.pdf).

<sup>153</sup> *Ripped Off*, *supra* note 86, at 2.

<sup>154</sup> *In Harm's Way*, *supra* note 92, at 17-18.



stallations and many servicemembers incorrectly believe that they are affiliated with the United States military. Further, servicemembers often incorrectly believe that the military oversees the advertising contained within these four papers. However, these newspapers are, in fact, all publications of the Gannett Company and have no official relationship with the U.S. government. Although the newspapers themselves are not scams, their advertisers are not vetted by the armed services.

## Legal Framework

State and federal law provides a robust legal framework to protect servicemembers, veterans, and their families as consumers. This Section provides an overview of some of the more important parts of that legal framework, including the Military Lending Act, the Servicemembers Civil Relief Act, the Fair Debt Collection Practices Act, state unfair and deceptive acts and practices (UDAP) statutes, and the military off-limits designation.

### Military Lending Act

The Military Lending Act<sup>155</sup> (MLA) was enacted in 2006 to provide active duty servicemembers with a variety of protections in transactions. The Department of Defense (DoD) amended MLA regulations in 2015<sup>156</sup> to expand coverage to include many non-mortgage related consumer credit transactions covered by the Truth-in-Lending Act (TILA) and Regulation Z, including credit card accounts and payday alternative loans (PALs), overdraft lines of credit,<sup>157</sup> and certain installment loans, i.e., those that are not expressly intended to finance the purchase of a vehicle or personal property when the credit is being secured by the vehicle or personal property.<sup>158</sup> The DoD provides an MLA Website and User Guide with detailed information about the Act.<sup>159</sup>

The loans covered by the MLA are typically made to borrowers experiencing cash flow difficulties. Aside from certain exempted transactions, the MLA applies to “credit offered or extended to a covered borrower primarily for personal, family or household purposes, and that is 1) subject to a finance charge or 2) payable by a written agreement in more than four installments.”<sup>160</sup> Often carrying exceedingly high interest rates, such short-term loans are often used to pay rent, utility bills, or perhaps unforeseen expenses, like auto repair, funerals, or family emergencies. Vehicle title loans additionally put a servicemember’s mode of transportation in jeopardy for non-payment.

Nonetheless, many servicemembers resort to these types of loans when suffering a short-term need for funds. The MLA was enacted to alleviate many of the risks typically associated with payday lending and other short-term, high-interest loans. As discussed in more detail below, the MLA caps interest rates and limits the use of certain loan terms that tend to be disadvantageous to borrowers.

The MLA applies to members of the Army, Navy, Marine Corps, Air Force, Space Force, or Coast Guard who are on active duty for a period of more than 30 days, and servicemembers serving under “active Guard and Reserve duty” as that term is defined in 10 U.S.C. § 101(d)(6).<sup>161</sup> It also covers spouses, children, and other dependents as defined in 10 U.S.C. § 1072(2)(A), (D), (E) or (I).<sup>162</sup>

### Rights Conveyed

As noted, the MLA conveys a wide array of rights to covered servicemembers in covered transactions; they are presented below in list format to simplify the ad hoc collection of rights.

- The primary protection of the MLA is a 36% cap on the Military Annual Percentage Rate (MAPR) of covered loans. The cap ensures that lenders do not charge servicemembers more than 36% of the principal of the loan per year in loan-related costs (i.e., the MAPR). The costs included in the MAPR calculation are the interest charged on the loan, any fees, credit service charges, credit renewal charges, credit insurance premiums including charges for single premium credit insurance, fees for debt cancellation or debt suspen-

<sup>155</sup> 10 U.S.C. § 987 (2024).

<sup>156</sup> 32 C.F.R. § 232 (2024).

<sup>157</sup> An overdraft line of credit with a finance charge is a covered consumer credit product when 1) it is offered to a covered borrower, 2) the credit extended is primarily for personal, family, or household purposes, 3) it is used to pay for an item that overdraws an asset account and results in a fee or charge to the covered borrower, and 4) the extension of credit for the item and the imposition of a fee were previously agreed upon in writing. Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 80 Fed. Reg. 43,560 (July 22, 2015) (codified at 32 C.F.R. pt. 232) [hereinafter “2015 MLA Administrative Notice”].

<sup>158</sup> For products except credit cards, compliance with the Department of Defense’s July 2015 rule began on October 3, 2016. Credit card account compliance began on October 3, 2017. The prior rule applies to accounts and transactions dated from October 1, 2007 to October 3, 2016. See 2015 MLA Administrative Notice, *supra* note 157.

<sup>159</sup> Welcome to the Official Military Lending Act (MLA) Website, Department of Defense, <https://mla.dmdc.osd.mil/mla/#/home> and MLA Website User Guide, Defense Manpower Data Center (Sept. 26, 2024), <https://mla.dmdc.osd.mil/mla/services/content/documents/userGuide>.

<sup>160</sup> 32 C.F.R. § 232.3(f)(1) (2024). Exceptions are listed at 32 C.F.R. § 232.3(f)(2).

<sup>161</sup> See 32 C.F.R. § 232.3(g)(2) (2024); see also 10 U.S.C. § 101(d)(2), (d)(6) in Appendix A, *infra*.

<sup>162</sup> 32 C.F.R. § 232.3(g)(3) (2024).

sion agreements, and fees for credit related ancillary products sold in connection with and either at or before consummation of the credit transaction.<sup>163</sup>

- The MLA requires certain loan information to be disclosed to the potential borrower “before or at the time the borrower becomes obligated on the transaction or establishes an account for the consumer credit.”<sup>164</sup> This is in addition to disclosures required by the TILA, prior to consummation of the loan. Among the information required to be disclosed is a statement of the MAPR “applicable to the extension of consumer credit,” and a clear description of the payment obligation of the borrower.<sup>165</sup>
- The MLA restricts loan rollovers and renewals and prohibits a lender from refinancing or consolidating a loan.<sup>166</sup>
- The MLA prohibits lenders from requiring a borrower to waive the right to legal recourse under any otherwise applicable provision of state or federal law, including any provision of the Servicemembers Civil Relief Act.<sup>167</sup>
- The MLA prohibits the lender from using the title of a vehicle as security for the obligation involving consumer credit, unless the creditor is chartered or licensed under federal or state law as a bank, savings association, or credit union.<sup>168</sup>
- Additionally, the lender is prohibited from using a check or other method of access to deposit, savings, or other financial accounts maintained by the borrower as security for the obligation.<sup>169</sup>
- The MLA prohibits the terms of a loan from requiring a borrower to submit to arbitration in the case of a dispute. It further prohibits a lender from imposing “onerous legal notice provisions” on bringing a claim against the lender.<sup>170</sup>

<sup>163</sup> 32 C.F.R. § 232.4(d)(1) provides that for consumer credit extended in a credit card account under an open-end (not home-secured) consumer credit plan, a bona fide fee, other than a periodic rate, is not a charge required to be included in the MAPR, provided it is a bona fide fee and reasonable for that type of fee.

<sup>164</sup> 32 C.F.R. § 232.6(a) (2024).

<sup>165</sup> *Id.*

<sup>166</sup> See 32 C.F.R. § 232.8(a) (2024).

<sup>167</sup> 32 C.F.R. § 232.8(b) (2024).

<sup>168</sup> 32 C.F.R. § 232.8(f) (2024).

<sup>169</sup> 32 C.F.R. § 232.8(e) (2024).

<sup>170</sup> 32 C.F.R. § 232.8(c) (2024).

<sup>171</sup> 32 C.F.R. § 232.8(g) (2024).

- The MLA prevents a lender from conditioning an extension of credit on the creation of a military allotment to repay the obligation.<sup>171</sup>
- Finally, the MLA prevents lenders from disallowing the prepayment of a loan or charging a penalty for prepayment.<sup>172</sup>

## Remedies and Penalties

The MLA specifically grants enforcement authority to federal agencies equivalent to that granted under the TILA. Thus the MLA can be enforced by federal agencies such as the FTC, CFPB, the National Credit Union Administration, the Office of the Comptroller of the Currency, the FDIC, the U.S. Department of Agriculture, and the Securities and Exchange Commission, with respect to entities over which they have regulatory power.<sup>173</sup> Further, states may pass legislation to authorize themselves to enforce the provisions of the MLA.<sup>174</sup> The MLA does not preempt state laws that are more protective of servicemembers in this area.<sup>175</sup> Remedies and penalties for violation of the MLA include:

- **Criminal penalties:** a knowing violation of the MLA is a misdemeanor punishable by a fine and/or imprisonment up to one year.<sup>176</sup>
- **Civil damages:** a person aggrieved by a violation is entitled to recover actual damages sustained as a result, but not less than \$500 for each violation; punitive damages; equitable or declaratory relief; and any other relief provided by law.<sup>177</sup>
- **Civil equitable relief:** any credit agreement, promissory note, or other contract failing to comply with the provisions of the MLA is rendered void from its inception.<sup>178</sup>

The remedies and rights provided by the MLA are in addition to and do not preclude any remedy otherwise available under state or federal law.<sup>179</sup>

<sup>172</sup> 32 C.F.R. § 232.8(h) (2024).

<sup>173</sup> See 10 U.S.C. § 987(f)(6) (2024), 15 U.S.C. § 1607 (2024); see also Alan Kaplinsky, *Congress Passes Bill Giving CFPB Authority to Enforce Military Lending Act and Creating Civil Liability for Violations*, CFPB Monitor, Ballard Spahr LLP (Dec. 28, 2012), <https://www.consumerfinancemonitor.com/2012/12/28/congress-passes-bill-giving-cfpb-authority-to-enforce-military-lending-act-and-creating-civil-liability-for-violations/>.

<sup>174</sup> Jean Ann Fox, *The Military Lending Act Five Years Later*, Consumer Federation of America 12 (May 29, 2012), [www.consumerfed.org/pdfs/Studies.MilitaryLendingAct.5.29.12.pdf](http://www.consumerfed.org/pdfs/Studies.MilitaryLendingAct.5.29.12.pdf).

<sup>175</sup> 32 C.F.R. § 232.7(a) (2024).

<sup>176</sup> 32 C.F.R. § 232.9(a) (2024).

<sup>177</sup> 10 U.S.C. § 987(f)(5)(A) (2024).

<sup>178</sup> 32 C.F.R. § 232.9(c) (2024).

<sup>179</sup> 32 C.F.R. § 232.9(b) (2024).

## Servicemembers Civil Relief Act

Recall that the Servicemembers Civil Relief Act (SCRA) protects servicemembers in a variety of legal contexts ranging from judicial proceedings to taxation and more. It is intended to postpone or suspend certain civil obligations to enable service members to devote full attention to duty and relieve stress on the family members, especially when a servicemember is deployed.<sup>180</sup> With respect to lending, credit, and debt collection, the SCRA caps interest rates during military service, provides certain rights and protections related to mortgage lending, and provides a host of protections regarding civil debt enforcement proceedings.<sup>181</sup>

For more information on SCRA protections in the lending, credit, and debt collection context, please refer to the “Rights Conveyed” Section on pages 7-10 discussing the provisions of the SCRA.

## Fair Debt Collection Practices Act<sup>182</sup>

In passing the Fair Debt Collection Practices Act (FDCPA) the United States Congress found that “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors.”<sup>183</sup> Further, “[a]busive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.”<sup>184</sup> Servicemembers, no less than the civilian population, fall victim to these practices. Needless to say, the consequences of suffering from abusive debt collection practices are of particular concern with respect to servicemembers, who must be focused on their duties rather than preoccupied with unscrupulous debt collections.

Servicemembers are particularly vulnerable to abusive debt collection practices. Since failure to pay a debt can be punished under the Uniform Code of Military Justice, debt collectors will often threaten to contact a servicemember’s superior officers to coerce payment.<sup>185</sup>

## Rights Conveyed

Although not specifically tailored to the context of a debt collector contacting a servicemember’s superior officers, the FDCPA prohibits a debt collector from contacting any third party in connection with the collection of any debt.<sup>186</sup> By default, a collector may only communicate with the debtor, the creditor, their attorneys, or a consumer reporting agency if otherwise permitted by law.<sup>187</sup> A collector may only communicate with a third party with the consent of the debtor, the permission of a court of competent jurisdiction, or “as reasonably necessary to effectuate a post-judgment judicial remedy.”<sup>188</sup>

The FDCPA imposes a number of other limitations on how a debt collector may communicate with a debtor. A debt collector may not contact a debtor at any unusual time or place; this prevents a debt collector from contacting a debtor before 8:00 a.m., after 9:00 p.m., or at any time or place known or which should be known to be inconvenient to the debtor.<sup>189</sup> A debt collector may not communicate with a debtor directly if the collector knows the debtor is represented by an attorney regarding the debt.<sup>190</sup> A collector may not contact a debtor at work if the collector has reason to know that the employer prohibits the debtor from receiving such calls.<sup>191</sup> Additionally, a debt collector must cease most forms of communication with a debtor upon written request from the debtor.<sup>192</sup>

The FDCPA prohibits a debt collector from harassing a debtor to compel payment. Prohibited conduct is defined as “any conduct the natural consequence of which is to harass, oppress, or abuse.”<sup>193</sup> For example, the FDCPA specifically prohibits the use of threats and obscene language, among other things.<sup>194</sup> Further, it prevents a debt collector from repeatedly or continuously telephoning a debtor with the intent to annoy, abuse, or harass.<sup>195</sup>

## Remedies and Penalties

The FDCPA allows those aggrieved by violations of the statute to recover money damages from the violator. The individual aggrieved can recover actual damages, punitive damages up to \$1,000, court costs, and reasona-

<sup>180</sup> *Servicemembers’ Civil Relief Act*, Office of the Comptroller of the Currency <https://www.occ.treas.gov/topics/consumers-and-communities/consumer-protection/servicemembers-civil-relief-act/index-servicemembers-civil-relief-act.html>.

<sup>181</sup> See *Servicemembers Civil Relief Act*, MilitaryOneSource (Jan. 2, 2025), <https://www.militaryonesource.mil/financial-legal/personal-finance/servicemembers-civil-relief-act/> [hereinafter “SCRA Military OneSource”].

<sup>182</sup> See 15 U.S.C. §§ 1692-1692p (2024).

<sup>183</sup> 15 U.S.C. § 1692(a) (2024).

<sup>184</sup> *Id.*

<sup>185</sup> See, e.g., Cooper Testimony, *supra* note 87.

<sup>186</sup> 15 U.S.C. § 1692c(b) (2024).

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> 15 U.S.C. § 1692c(a)(1) (2024).

<sup>190</sup> 15 U.S.C. § 1692c(a)(2) (2024).

<sup>191</sup> 15 U.S.C. § 1692c(a)(3) (2024).

<sup>192</sup> 15 U.S.C. § 1692c(c) (2024).

<sup>193</sup> 15 U.S.C. § 1692d (2024).

<sup>194</sup> 15 U.S.C. § 1692d(1)-(2) (2024).

<sup>195</sup> 15 U.S.C. § 1692d(5) (2024).



ble attorney's fees.<sup>196</sup> In determining the amount of punitive damages, a court will consider "the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional."<sup>197</sup>

Authority to enforce the FDCPA typically rests with the FTC. Violation of the FDCPA is, by its very nature, an unfair or deceptive act or practice under the FTC Act, invoking all the powers and functions the FTC possesses under the FTC Act.<sup>198</sup> However, the FTC's enforcement authority is limited with respect to entities over which other federal agencies have regulatory authority. Thus, agencies such as the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Company, and National Credit Union Administration Board—among others—share FDCPA enforcement authority.<sup>199</sup> In addition to filing a complaint with the state attorney general, a servicemember suffering from debt collection practices which potentially violate the FDCPA should file a complaint online with the FTC and the CFPB. Complaints can be filed with the FTC and CFPB at <https://reportfraud.ftc.gov/> and [www.consumerfinance.gov/complaint](http://www.consumerfinance.gov/complaint), respectively.

### UDAP Statutes

Unfair and deceptive acts and practices (UDAP) statutes are some of the most far-reaching and effective consumer protection tools. Because they are so broadly drafted, UDAP statutes provide the attorneys general with an opportunity to make an argument for a victimized servicemember in a huge variety of circumstances.

In large part the schemes outlined in this Section are not exclusively used to target military members. Indeed, it is likely that consumer protection divisions frequently deal with these types of schemes outside of the military context. That being said, it is important to appreciate what can be gained by identifying businesses which target servicemembers and veterans with unfair and deceptive acts or practices. Undoubtedly, identifying these types of businesses for enforcement purposes vindicates a very important public interest. The nation owes it to our servicemembers for the sacrifices they make to protect them from unfair and deceptive acts and practices at home. Practitioners bringing enforcement actions against businesses targeting the military have also found servicemembers to be excellent, well-spoken, sympathetic witnesses, which may offer practical advantages.

Moreover, additional consumer complaints may be especially easy to track down thanks to the FTC's Consumer Sentinel and recently implemented military dashboard. The FTC's Consumer Sentinel provides users with access to millions of categorized and searchable consumer complaints.<sup>200</sup> Consumer Sentinel and the military dashboard denotes complaints from military members, making it easy for users to aggregate military complaints against the same offenders.<sup>201</sup>

### Off-Limits Designation

The off-limits designation is a potentially powerful tool that can be used to prevent servicemembers from suffering fraud. At military installations, commanders have substantial discretion to declare businesses temporarily off-limits to their personnel in order to "help maintain good order and discipline, health, morale, safety, and welfare of Service [sic] personnel . . . [w]here sufficient cause exists."<sup>202</sup> Servicemembers are prohibited from doing business with or even entering the off-limits establishment. While individual commanders may temporarily place businesses off-limits, the Armed Forces Disciplinary Control Board (AFDCP) processes placement of an establishment on a permanent off-limits list.

The standard for instituting AFDCP permanent off-limits proceedings is substantially similar to the standard applicable to a commander's initial designation of an establishment as temporarily off-limits. Instituting AFDCP permanent off-limits proceedings requires the presence of substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions which adversely affect their health, safety, welfare, morale, or morals.<sup>203</sup> If such information exists, AFDCP representatives will investigate the establishment and submit a report to the AFDCP. If the AFDCP concludes that conditions adverse to servicemembers do exist, the establishment in question will be notified and given a chance to correct the issue. If the establishment does not take remedial action, its proprietor will be invited to appear before the AFDCP to explain why the establishment should not be placed off-limits. The AFDCP will then decide whether to place the business off-limits.

<sup>200</sup> See *Consumer Sentinel Network*, Federal Trade Commission, [www.ftc.gov/enforcement/consumer-sentinel-network](http://www.ftc.gov/enforcement/consumer-sentinel-network).

<sup>201</sup> See *FTC Launches New Online Tool For Exploring Military Consumer Data*, Federal Trade Commission (July 13, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/07/ftc-launches-new-online-tool-exploring-military-consumer-data>.

<sup>202</sup> *Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations*, Military Police 2-6 (July 27, 2006), [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/r190\\_24.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r190_24.pdf) [hereinafter "AFDCB Off-Installation Liaisons"].

<sup>203</sup> *Id.* at B-6.

<sup>196</sup> 15 U.S.C. § 1692k (2024).

<sup>197</sup> 15 U.S.C. § 1692k(b)(1) (2024).

<sup>198</sup> *In Harm's Way*, *supra* note 92, at 30-31.

<sup>199</sup> 15 U.S.C. § 1692l (2024).

Use of the off-limits process can have many benefits for servicemembers. Importantly, a business does not need to engage in patently illegal activity for it to be placed off-limits.<sup>204</sup> Thus, the off-limits designation has a broader possible reach than traditional law enforcement methods. This can be especially critical with situations which may not be technically illegal but are nevertheless harmful to servicemembers. Further, it is possible that, once subject to scrutiny, businesses will voluntarily change their harmful practices.

More information on the AFDCB off-limits process is available at [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/r190\\_24.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r190_24.pdf), sections 2-6 and B-6.

## Resources for Servicemembers

There are a number of resources available to servicemembers to help them educate themselves about lending, credit, debt, and managing their finances in general. Additionally, servicemembers who need more tangible financial assistance may be eligible for interest-free loans provided by Military Relief Organizations<sup>205</sup> and other non-profit institutions. The attorneys general should be aware of these services and be able to direct servicemembers to the resources appropriate to their need.

Servicemembers should not hesitate to take advantage of these resources when the need arises. Many servicemembers may be reluctant to admit their financial difficulties to entities associated with the military because they fear they may be disciplined by their superiors or put their security clearance at risk for failing to keep their finances in order. This reluctance can lead servicemembers to seek other solutions which can be much more disadvantageous to them in the long term and even plunge them deeper into debt. Servicemembers should understand that isolated incidents of financial trouble almost never trigger discipline.<sup>206</sup> The reality is that in all but serious, repeat-offender cases, a superior officer will most likely refer a servicemember suffering from financial distress to some of the resources discussed below rather than consider discipline.<sup>207</sup>

<sup>204</sup> *In Harm's Way*, *supra* note 92, at 30-3.

<sup>205</sup> See *Military Support Organizations*, Department of Defense, <https://www.defense.gov/Resources/Military-Support-Organizations/> ("If you're having serious financial problems, your Military Service relief organization can assist. Army Emergency Relief, the Navy-Marine Corps Relief Society, the Air Force Aid Society, and Coast Guard Mutual Assistance may be able to help with interest-free loans, grants, or a combination of loans and grants. They can also offer financial preparedness counseling and tuition assistance.").

<sup>206</sup> *In Harm's Way*, *supra* note 92, at 13.

<sup>207</sup> *Id.* at 14.

## Financial Management Services

Financial management services educate and advise servicemembers on financial matters. These resources can be extremely valuable to servicemembers who may otherwise turn to risky solutions such as payday lending in the face of financial struggles.

## Military Personal Financial Management Services

Each branch of the armed services has a Personal Financial Management (PFM) program designed to help servicemembers keep their finances in order, save for the future, improve their credit, and resolve financial problems. Although the particulars may vary by service branch, PFM programs typically include classes, seminars, and individual counseling opportunities to educate servicemembers and their families about their rights as consumers and to help them achieve financial stability.<sup>208</sup> For instance, class and seminar topics may include budgeting, banking and credit union services, and credit use and abuse. PFM services are provided at no cost to the servicemember. PFM services are offered at most military installations. Servicemembers who do not reside on a military installation can visit <https://www.homes.mil/homes/DispatchServlet/HomesEntry> to find the nearest installations offering PFM services. Servicemembers may schedule telephone counseling appointments through Military OneSource by calling (800) 342-9647. Further, servicemembers can visit Military OneSource online for a number of educational resources and financial management tools at <https://www.militaryonesource.mil/>.

## Armed Forces Legal Assistance

Each branch of the armed services has legal assistance offices which provide free legal services and attorney advice to servicemembers and their families. Servicemembers should not hesitate to meet with an attorney for help with any kind of consumer issue. For servicemembers suffering from a dispute over a consumer issue, lending, credit, and debt collection problems, legal assistance attorneys may be able to help with communication, correspondence, and negotiation with collection agencies, lawyers, or other parties.<sup>209</sup> Legal assistance attorneys are particularly well-versed in the Servicemembers Civil Relief Act and can explain its protections as well as servicemembers' responsibilities under the Act.<sup>210</sup> With

<sup>208</sup> *Financial Counseling*, Military OneSource, <https://www.militaryonesource.mil/benefits/financial-counseling/>.

<sup>209</sup> *Legal Assistance for Service Members and Families*, Military OneSource, <https://www.militaryonesource.mil/benefits/legal-assistance-for-service-members-and-families/>.

<sup>210</sup> See *Id.*; see also *SCRA Military OneSource*, *supra* note 181.



these legal tools in mind and the help of a legal assistance attorney, servicemembers can work toward solutions.

Legal assistance services are offered at most military installations, but online tools are also available to make the search easier:

- All servicemembers can visit <https://legalassistance.law.af.mil/> to find the nearest installations offering legal assistance services (continental US only).
- Navy servicemembers can visit <https://www.jag.navy.mil/legal-services/rloso/> to find a legal assistance office anywhere in the world.
- Coast Guard servicemembers can visit <https://www.uscg.mil/Resources/Legal/Legal-Assistance/Find-A-Legal-Assistance-Lawyer/> to find offices anywhere in the United States (including Alaska and Hawaii).

### Third-Party Financial Management Resources

**Military Relief Organizations.** Some of the private, non-profit military relief organizations discussed in greater detail below in the context of interest-free military loans also provide financial counseling.<sup>211</sup> The Navy-Marine Corps Relief Society's Financial Assistance and Counseling Program employs caseworkers who will assist sailors and Marines by helping to prepare budgets and providing money-saving resources and tips.<sup>212</sup>

Similarly, Coast Guard Mutual Assistance offers counseling services.<sup>213</sup> Army Emergency Relief and the Air Force Aid Society do not have independent financial counseling services but do provide counseling in connection with their loan and grant programs.<sup>214</sup>

<sup>211</sup> See *Interest Free Loans*, *infra* at 28.

<sup>212</sup> *Volunteer Duty Casework*, Navy-Marine Corps Relief Society, <https://www.nmcrs.org/volunteer/assist-clients>.

<sup>213</sup> *Get Help*, Coast Guard Mutual Assistance, <https://mycgma.org/get-help/#available-assistance>.

<sup>214</sup> See *Frequently Asked Questions*, Army Emergency Relief, <https://www.armyemergencyrelief.org/faqs/> ("Army Community Services provides financial counseling with accredited financial counselors through the Financial Readiness Program. Although financial counseling is not a prerequisite to receiving AER assistance, many AER officers are also accredited financial counselors and can provide financial counseling or refer individuals to FRP."); *Family Readiness Equals Mission Readiness*, Air Force Aid Society (March 26, 2020), <https://afas.org/airmen-stories/family-readiness-equals-mission-readiness/> ("Jennifer Aubrey has worked as an [AFAS] Officer and Community Readiness Consultant since 2007. Part of her role is providing financial counseling to those who seek assistance. People who visit her may not know the many ways that AFAS can help, including providing emergency assistance, education support, and community programs.").

**Navy Federal Credit Union.** Navy Federal Credit Union (Navy Federal) is a nonprofit, member-owned credit union serving the United States defense industry, including all branches of the Armed Forces. In addition to the banking services offered by credit unions, Navy Federal provides financial planning services.<sup>215</sup>

Navy Federal provides a wide variety of free educational materials on managing a person's money. These materials cover general topics such as saving, investing, budgeting, and credit and debt management. They can be found at <https://www.navyfederal.org/makingcents/blog.html>. Navy Federal also has an ongoing agenda of free financial seminars all over the country. The calendar of events is available at <https://www.navyfederal.org/resources/events.html>.

Furthermore, Navy Federal also provides materials more specifically directed at servicemembers and veterans. These materials are designed to help servicemembers and veterans make wise financial choices during deployment, relocation, and transition back to civilian life. They are available at <https://www.navyfederal.org/makingcents/military-life/transitioning-from-military-to-civilian-life.html>.

### Interest-Free Loans

Servicemembers in need of additional money may qualify for an interest-free loan from a number of sources. These loans carry much less risk and provide an excellent alternative to the short-term, high-interest loans often relied upon by people experiencing temporary cash flow difficulties and that were discussed earlier in this Section.

### Military Relief Organizations

Servicemembers have access to excellent financial resources in their branch-specific military relief organizations. Military relief organizations are private, non-profit organizations that help servicemembers and their families with certain emergency financial needs. These organizations can provide interest-free loans, grants, or a combination thereof to servicemembers in need.<sup>216</sup>

**Army Emergency Relief.** Army Emergency Relief (AER) provides assistance to soldiers on active duty, members of the Army National Guard and Army Reserve

<sup>215</sup> *Financial Planning*, Navy Federal Credit Union, <https://www.navyfederal.org/investment-services/financial-planning.html>.

<sup>216</sup> See *Military Relief Organizations and Emergency Financial Help*, Military OneSource, <https://www.militaryonesource.mil/resources/tools/military-relief-organizations-and-emergency-financial-help/>.

on active duty for more than 30 days, and certain retired soldiers.<sup>217</sup> AER also provides assistance to the families of such soldiers and the surviving family members of soldiers who give their lives while on active duty.<sup>218</sup>

AER provides funds to help with a variety of emergency financial needs. AER funds can be issued to help with essential expenses such as rent, mortgage payments, vehicle repair, medical bills, utilities, and even food.<sup>219</sup> There is no specific dollar limit on AER funds, though some categories of assistance do have limits.<sup>220</sup> However, AER will not provide funds to pay fines, legal expenses, or to liquidate or consolidate debt.<sup>221</sup> AER funds come in the form of interest-free loans or grants.<sup>222</sup> For solving cash flow difficulties, any of these options is much more advantageous to a soldier than resorting to high-interest loans such as payday loans. But since AER will not provide funds to liquidate debt, in an emergency, soldiers should first seek help from AER.

Soldiers in need should visit <https://www.armyemergencyrelief.org/> to apply for funds and for more information on the services provided by Army Emergency Relief, including a more comprehensive list of eligible expenses.

**Navy-Marine Corps Relief Society.** The Navy-Marine Corps Relief Society (NMCRS) provides financial assistance to active duty and retired sailors and Marines, as well as Reservists on active duty for 30 days or more.<sup>223</sup> NMCRS also assists sailors' and Marines' family members and surviving spouses.<sup>224</sup>

NMCRS offers interest-free loans and grants to meet a variety of essential financial needs. NMCRS commonly provides funds to help sailors and Marines pay expenses such as rent, car repairs, medical and dental bills, and costs associated with establishing a new residence.<sup>225</sup> Like Army Emergency Relief assistance, NMCRS assistance comes in the form of interest-free loans, grants, or a combination thereof.<sup>226</sup> Typically, a

sailor or Marine must make an appointment with an NMCRS office and meet with a caseworker in order to receive funds.<sup>227</sup> However, if the amount requested is less than \$1,000, a sailor or Marine may be able to get a "Quick Assist Loan," which can be approved within minutes after submission of a brief application.<sup>228</sup>

Sailors and Marines in need should visit [www.nmcrcs.org](http://www.nmcrcs.org) to apply for funds and obtain more information on the services provided by the Navy-Marine Corps Relief Society, including a more comprehensive list of eligible expenses.

**Air Force Aid Society.** The Air Force Aid Society (AFAS) provides financial assistance to active-duty airmen and guardians, Air National Guard and Air Force Reserve personnel on active duty for over 15 days, and retired airmen and guardians. AFAS also serves family members and surviving family members of such airmen and guardians.<sup>229</sup>

AFAS provides interest-free loans and grants to airmen to address emergency expenses. Covered expenses include basic living expenses, emergency travel, vehicle expenses, medical bills, and moving expenses.<sup>230</sup>

Loans and grants under the AFAS Standard Assistance Program are made after application is made; an airman or guardian may be required to confidentially discuss the circumstances of the need for assistance with an AFAS caseworker and present a budget.<sup>231</sup>

However, if the amount requested is less than \$1,500, an airman or guardian may instead apply for Falcon Assistance.<sup>232</sup> Falcon Assistance applications usually do not require an airman or guardian to submit a budget, streamlining the loan approval process.<sup>233</sup>

Airmen or guardians in need should visit [www.afas.org](http://www.afas.org) to apply for funds and receive more information on the services provided by the Air Force Aid Society, including a more comprehensive list of eligible expenses.

<sup>217</sup> *Financial Assistance Programs, Army Emergency Relief*, <https://www.armyemergencyrelief.org/assistance/>.

<sup>218</sup> *See id.*

<sup>219</sup> *See id.*

<sup>220</sup> *Frequently Asked Questions, Army Emergency Relief*, [www.armyemergencyrelief.org/faqs](https://www.armyemergencyrelief.org/faqs) ("Is there a dollar limit on AER assistance? Every request is unique and considered on an individual basis. There is no upper limit for AER support, however, the most common assistance we provide is \$1,500 for a 15-month loan. Some categories of assistance have dollar limits and other categories have requirements related to grants versus loans.").

<sup>221</sup> *Id.* ("What can't AER help with?").

<sup>222</sup> *Id.* ("What type of financial assistance will I receive?").

<sup>223</sup> *Financial Assistance, Navy-Marine Corps Relief Society*, <https://www.nmcrcs.org/our-services/financial-assistance-loans>.

<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Quick Assist Loans, Navy-Marine Corps Relief Society*, <https://www.nmcrcs.org/our-services/quick-assist-loans>.

<sup>229</sup> *Air Force Aid Society Assistance Guide*, Air Force Aid Society (Jan. 2020), [www.afas.org/wp-content/uploads/2020/01/AFAS\\_AssistanceGuide2020.pdf](https://www.afas.org/wp-content/uploads/2020/01/AFAS_AssistanceGuide2020.pdf).

<sup>230</sup> *Which Loan is Right for Me*, Air Force Aid Society, <https://afas.org/how-we-help/which-loan-is-right-for-me/> (listing the types of expenses covered by the Standard Assistance Program and Falcon Assistance).

<sup>231</sup> *Id.*

<sup>232</sup> *Falcon Assistance*, Air Force Aid Society, <https://afas.org/falcon-assistance/>.

<sup>233</sup> *Id.*

**Coast Guard Mutual Assistance.** Coast Guard Mutual Assistance (CGMA) provides financial assistance to a broad network of individuals associated with the Coast Guard. Almost everyone associated with the Coast Guard is potentially eligible for assistance from CGMA on behalf of themselves or their immediate family members.<sup>234</sup> This generally includes active-duty members, retired military personnel, civilian employees, reserve members, and auxiliary members, among others.<sup>235</sup>

CGMA offers several financial assistance programs to meet differing needs. CGMA's offers programs similar to the financial assistance programs of the military relief organizations previously discussed, including programs to help Coast Guard members meet basic living expenses, address home and vehicle repairs, and cover emergency travel expenses.<sup>236</sup> CGMA's Medical and Dental Program is a last resort source of funding in the face of extraordinary and unexpected medical expenses.<sup>237</sup> CGMA also offers other programs that cover less immediate financial difficulties, such as child care, and moving expenses, among others.<sup>238</sup> Financial assistance from each of these CGMA programs comes in the form of interest-free loans, grants, or a combination of both.<sup>239</sup> CGMA also offers a Quick Loan Program to active duty, reserve and civilian employees which provides loans of \$1500 or less to address needs that fall under an existing program.<sup>240</sup> Coast Guard members in need should visit <https://mycgma.org/>.

## Non-Profits

**American Red Cross.** The American Red Cross works under partnership agreements with the Air Force Aid Society, Army Emergency Relief, Coast Guard Mutual Assistance, and Navy-Marine Corps Relief Society to help facilitate the lending efforts of those organizations.<sup>241</sup> Not all servicemembers are located in a place with convenient access to an office of their branch's Military Relief Organization. Fortunately, the American Red Cross is able to process loan applications from any eligible servicemember on behalf of any of the four Military

Relief Organizations.<sup>242</sup>

Servicemembers in need should visit <https://www.redcross.org/get-help/military-families/financial-assistance.html> for more information or call (877) 272-7337 to apply for assistance.

## Educational Resources

As noted above, when it comes to preventing unfair and deceptive business practices, the educated consumer is the first line of defense. State governments, federal agencies, and non-governmental organizations provide a multitude of resources to help consumers educate themselves and avoid scams. This Section outlines some resources that are available so attorney general offices can easily connect servicemembers with opportunities to become more knowledgeable consumers.

### Federal Resources

At the federal level, several independent agencies and task forces enforce consumer fraud statutes and work to prevent consumer fraud through educational outreach. Some provide resources directed specifically at servicemembers while others offer more general guidance.

USA.gov, the federal government's official web portal, provides overviews of many common consumer frauds and scams, including describing what consumers should be on the lookout for. USA.gov's consumer fraud information can be found at: <https://www.usa.gov/scams-and-fraud>.

The Federal Trade Commission and the Consumer Financial Protection Bureau both offer general consumer education and protection resources at their websites, which are [www.ftc.gov](http://www.ftc.gov) and [www.cfpb.gov](http://www.cfpb.gov), respectively. In addition, both agencies have information specifically pertaining to issues encountered by military servicemembers, veterans and their families:

- **Consumer Financial Protection Bureau.** The Consumer Financial Protection Bureau provides guides to help servicemembers protect their finances and plan for their future. These guides can be found at: [www.consumerfinance.gov/servicemembers](http://www.consumerfinance.gov/servicemembers).
- **Federal Trade Commission.** The Federal Trade Commission provides informational materials geared toward servicemembers on a wide variety

<sup>234</sup> See *Get Help*, Coast Guard Mutual Assistance, <https://mycgma.org/get-help/#who-we-help>.

<sup>235</sup> *Id.*

<sup>236</sup> *Programs*, Coast Guard Mutual Assistance, [https://mycgma.org/programs/?cat\\_id=14](https://mycgma.org/programs/?cat_id=14) (list of programs filtered for "emergency").

<sup>237</sup> *Medical/Dental Loan*, Coast Guard Mutual Assistance, <https://mycgma.org/programs/medical-dental-loan/>.

<sup>238</sup> *Programs*, Coast Guard Mutual Assistance, <https://mycgma.org/programs/>.

<sup>239</sup> See *Home Repair Loan*, Coast Guard Mutual Assistance, <https://mycgma.org/programs/home-repair-loan/> ("If repairs are necessary and you don't have the funds, CGMA can help with a loan. In extreme circumstances, CGMA will consider a larger loan or a partial grant.").

<sup>240</sup> *Quick Loan*, Coast Guard Mutual Assistance, <https://mycgma.org/programs/quick-loan/>.

<sup>241</sup> *Financial Assistance for Military Families*, American Red Cross, <https://www.redcross.org/get-help/military-families/financial-assistance.html>.

<sup>242</sup> *Id.*



of consumer topics including credit, identity theft, education, saving, investing, charitable donations, and vehicle sales and financing. The FTC's materials can be found at: <https://www.militaryconsumer.gov/>.

### **State Resources**

The consumer protection divisions of a state's attorney general office typically provide educational resources and consumer complaint submission opportunities on their websites. Each state's consumer protection site is listed in Appendix B. Many attorney general offices also have veterans groups, charities groups, or both. Where applicable, these websites are also listed in Appendix B.

### **Non-Governmental Resources**

Several non-governmental organizations also do valuable work in consumer education. Organizations such as the National Consumer Law Center, Consumer Federation of America, and the Better Business Bureau can be great resources for servicemembers, veterans, and their families.

**AARP.** The AARP (formerly the American Association of Retired Persons) is an interest group in the United States focusing on issues affecting those over the age of fifty. They also have been involved in initiatives and programs that benefit servicemembers and veterans. AARP provides information and resources on various topics, including healthcare options, financial planning, and navigating the complexities of benefits as well as caregiver support and employment assistance. More information about AARP can be found at <https://www.aarp.org/about-aarp/>.

**Better Business Bureau.** The Better Business Bureau (BBB) offers general consumer education resources, including a compilation of the most common scams of the year, on its website at <https://www.bbb.org/all/consumer-hq>. The BBB Military Line also provides free financial resources for military families on topics such as saving, investing, managing credit, and more. These materials are available at <https://www.bbb.org/all/bbbi/military-and-veteran-information>.

**Consumer Federation of America.** The Consumer Federation of America (CFA) is a well-respected consumer watchdog group. The CFA is a prolific publisher of brief educational brochures on discrete consumer

protection issues in a variety of contexts. These materials can be found at: [www.consumerfed.org/consumer-information](http://www.consumerfed.org/consumer-information).

**Military Saves.** Military Saves is a component of the non-profit America Saves and a partner in the Department of Defense's Financial Readiness Network. Military Saves "seeks to motivate, support, and encourage military families to save money, reduce debt, and build wealth."<sup>243</sup> Military Saves provides instructional guides on several financial topics including how and why to save for emergencies and how to reduce debt.<sup>244</sup>

**National Consumer Law Center.** The National Consumer Law Center (NCLC) is considered an authority on consumer law and provides educational materials on a wide variety of consumer law issues. The NCLC issues portal is located at <https://www.nclc.org/issue/>. The NCLC also published a comprehensive report on consumer scams targeting the military. The report, entitled "In Harm's Way – At Home: Consumer Scams and the Direct Targeting of America's Military and Veterans," is available at [https://filearchive.nclc.org/special\\_projects/military/report-scams-facing-military.pdf](https://filearchive.nclc.org/special_projects/military/report-scams-facing-military.pdf).

<sup>243</sup> About Military Saves, Military Saves, <https://militarysaves.org/about-us/>.

<sup>244</sup> What to Save For, Military Saves, <https://militarysaves.org/what-to-save-for/?goal=emergency-fund>; Five Saving Strategies, Military Saves, <https://militarysaves.org/what-to-save-for/make-a-plan-how-to-save/five-saving-strategies/>.



# Education



Credit—Lance Cpl. Alexandra Amor Santos, VIRIN 190710-M-ZE543-0044

## **SERVICEMEMBERS' AND VETERANS' EDUCATION BENEFITS AND POTENTIAL PITFALLS IN EXERCISING THEM**

*The Departments of Defense and Veterans Affairs, as well as many states, provide servicemembers and veterans who wish to pursue higher education with tuition assistance and other related benefits to help them in those endeavors. Indeed, the educational benefits and the opportunity to gain the education needed to advance in their career are among the primary reasons some choose to join the military. However, this generous package of benefits makes student servicemembers and veterans a particularly desirable target for predatory recruiting by unscrupulous actors. This Section gives an overview of some of the education benefits available to servicemembers and veterans; outlines the dangers associated with some schools; and provides resources that servicemembers, veterans, and attorney general offices can use to help ensure servicemembers and veterans obtain the quality education to which they are entitled.*

## **Education Benefits Overview**

Depending on the circumstances, servicemembers and veterans may be eligible for financial assistance in seeking higher education. The Department of Defense (DoD)<sup>245</sup> and the Department of Veterans Affairs<sup>246</sup> each administer several educational assistance programs. This Section provides a brief overview of these programs and directs readers to resources with further information.

### ***Tuition Assistance Programs***

Many servicemembers wish to further their education while on active duty by taking college classes or vocational trainings during their off-duty hours. Each branch of the Armed Forces provides a tuition assistance program to support active-duty servicemembers' education goals. The Air Force, Army, Marine Corps, Navy, Coast Guard and Space Force tuition assistance programs

<sup>245</sup> Department of Defense Education Activity, U.S. Army, [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/DoD-Education-Activities-\(DoDEA\)?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/DoD-Education-Activities-(DoDEA)?serv=122).

<sup>246</sup> VA education and training benefits, Department of Veterans Affairs (Nov. 29, 2024), <https://www.va.gov/education/>.

can cover up to 100% of tuition and fees (subject to certain total spending limits). Members of the National Guard, the Air Force Reserve, Army Reserve, and Coast Guard Reserve may also be eligible for tuition assistance under certain circumstances. The Marine Corps Reserve and Navy Reserve currently have no tuition assistance programs, unless their members are activated under Title 10 orders. An summary of benefits can be found at <https://www.militaryonesource.mil/education-employment/for-service-members/need-money-for-higher-education/>.

More in-depth information on eligibility and benefits can be found at the following websites:

- **Air Force:** <https://www.airforce.com/education>.
- **Army:** [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Tuition-Assistance-\(TA\)](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Tuition-Assistance-(TA)).
- **Marines:** <https://www.marines.com/life-as-a-marine/benefits/education.html>.
- **Navy:** <https://www.navycollege.navy.mil/sailors/tuition-assistance>.
- **Space Force:** <https://www.spaceforce.com/education/enlisted>.
- **Coast Guard:** <https://www.forcecom.uscg.mil/Our-Organization/FORCECOM-UNITS/ETQC/>.
- **Reserves:** <https://www.military.com/education/money-for-school/reserve-tuition-assistance.html>.
- **National Guard:** <https://www.military.com/education/money-for-school/national-guard-tuition-assistance.html>.

### **Department of Veterans Affairs Benefits**

The Department of Veterans Affairs offers a host of education assistance programs for veterans.<sup>247</sup> This Section discusses three of these programs: the Post-9/11 GI Bill, the Montgomery GI Bill and the Yellow Ribbon Program.

The VA provides a comparison tool to help servicemembers and veterans decide which program will be

most beneficial for their circumstances. The comparison tool is available at <https://www.va.gov/gi-bill-comparison-tool/>.

### **The Post-9/11 GI Bill<sup>248</sup>**

The Post-9/11 GI Bill is the main source of education and training benefits for the newest generation of veterans who served on active duty since September 10, 2001. The Post-9/11 GI Bill provides up to 36 months of undergraduate and graduate education, vocational or technical programs, or on-the-job training benefits.<sup>249</sup> The primary benefits are tuition and fee payments made directly to a veteran's institute of higher learning.<sup>250</sup> Other benefits include a monthly housing allowance and an annual books and supply stipend.<sup>251</sup> Unused benefits can be transferred to family members as long as the servicemember completed at least 6 years of active duty service.<sup>252</sup>

The dollar values of Post-9/11 GI Bill benefit are adjusted on an annual basis to reflect current costs of higher education.<sup>253</sup> The most up-to-date coverage rates and more information on the monthly housing allowance and book and supply stipend can be found at the following Department of Veterans Affairs website: [https://benefits.va.gov/gibill/resources/benefits\\_resources/rate\\_tables.asp](https://benefits.va.gov/gibill/resources/benefits_resources/rate_tables.asp).

Veterans with at least 90 days of aggregate active-duty service after September 10, 2001 may be eligible for the program. The amount of the benefit depends, to a degree, on the length of service. Eligibility for full Post-9/11 GI Bill benefits requires 36 months of active duty service after September 10, 2001.<sup>254</sup> Veterans who served 30 days and were discharged due to a service-connected disability may also be eligible for full benefits. The full eligibility schedule is available at <https://www.va.gov/education/eligibility/>.

<sup>248</sup> *Post-9/11 GI Bill* (Chapter 33), Department of Veterans Affairs (Feb. 26, 2025), <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/> [hereinafter "*Post-9/11 GI Bill* (Chapter 33)"].

<sup>249</sup> *Id.*

<sup>250</sup> *Post-9/11 GI Bill*, MyArmyBenefits, <https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Post-9/11-GI-Bill>.

<sup>251</sup> *Post-9/11 GI Bill* (Chapter 33), *supra* note 248.

<sup>252</sup> *Transfer your Post-9/11 GI Bill benefits*, Department of Veterans Affairs (Jan. 15, 2025), <https://www.va.gov/education/transfer-post-9-11-gi-bill-benefits/>.

<sup>253</sup> *Current VA Education Benefit Rates*, Department of Veterans Affairs (Nov. 29, 2024), <https://www.va.gov/education/benefit-rates/>.

<sup>254</sup> *Post-9/11 GI Bill* (Chapter 33), *supra* note 248.

<sup>255</sup> *Id.*

<sup>247</sup> *Id.*



## The Montgomery GI Bill

The Montgomery GI Bill is composed of two distinct programs: the Montgomery GI Bill Active Duty (MGIB-AD) and the Montgomery GI Bill Selected Reserve (MGIB-SR). The MGIB provides education benefits for veterans who have served on active duty and made a financial contribution during their initial enlistment. Eligible veterans receive monthly payments to cover educational expenses.

**MGIB-AD.**<sup>256</sup> The MGIB-AD provides up to 36 months of benefits in the form of reimbursements for tuition costs a veteran incurs pursuing eligible higher education or vocational training programs. The monthly benefit paid is based on the type of education or training undertaken; the veteran's length of service and eligibility category; whether the veteran qualifies for a college fund; and whether the veteran contributed to the "buy-up program." The buy-up program allows a servicemember to contribute up to \$600 while on active duty in order to later receive up to an additional \$5,400 in MGIB-AD benefits.<sup>257</sup> Current payment rates can be found at <https://www.va.gov/education/benefit-rates/>.

There are four different categories of MGIB-AD eligibility, but the basic requirements for each are the completion of two years of active-duty service, an honorable discharge, and a high school diploma or its equivalent. They also generally must contribute \$1,200 during their first year of active-duty service. Remaining eligibility requirements can be found at <https://www.va.gov/education/about-gi-bill-benefits/montgomery-active-duty/>.

**MGIB-SR.**<sup>258</sup> The MGIB-SR program provides education and training benefits to eligible members of the Selected Reserve, including the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve, as well as the Army National Guard and the Air National Guard. Members may be eligible if they have a six-year service obligation in the Selected Reserve; complete their initial active duty for training; get a high school diploma or equivalent; and stay in good standing while serving in an active Selected Reserve unit. More information on eligibility and appli-

cation requirements can be found at <https://www.va.gov/education/about-gi-bill-benefits/montgomery-selected-reserve/>. Generally, benefits end when a member leaves the Selected Reserves.<sup>259</sup>

Like the Post 9/11 GI Bill and MGIB-AD, the MGIB-SR provides up to 36 months of education or vocational training benefits. Potentially eligible programs include college degree and certificate programs, co-op training, technical or vocational courses, flight training, apprenticeships or on-the-job training, high-tech training, licensing and certification tests, entrepreneurship training, certain entrance examinations, and correspondence courses. Benefit payout rates can be found at <https://www.va.gov/education/benefit-rates/>.

## The Yellow Ribbon Program

The Yellow Ribbon Program is a provision of the Post-9/11 GI Bill that helps veterans and their families cover the costs of tuition and fees at private, foreign, and graduate schools. Participating educational institutions must enter into an agreement with the VA to participate in the Yellow Ribbon Program.<sup>260</sup>

For a veteran and their family to be eligible for the Yellow Ribbon Program, the veteran must be entitled to the maximum benefit rate under the Post-9/11 GI Bill.<sup>261</sup> That generally requires that the veteran served at least 36 months of active duty service since September 10, 2001, or has been honorably discharged for a service-connected disability after 30 continuous days.<sup>262</sup>

Under the Yellow Ribbon Program, the school will contribute to cover tuition and fees at higher-cost private colleges or out-of-state institutions that exceed the maximum in-state public institution cost, and the VA will match the school's contribution.<sup>263</sup> More information about this program and participating education institutions can be found at <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/yellow-ribbon-program/> and <https://www.va.gov/education/yellow-ribbon-participating-schools/>.

<sup>256</sup> *Montgomery GI Bill Active Duty (MGIB-AD)*, Department of Veterans Affairs (Jan. 31, 2025), <https://www.va.gov/education/about-gi-bill-benefits/montgomery-active-duty/>.

<sup>257</sup> *\$600 Montgomery GI Bill Buy-Up program rates*, Department of Veterans Affairs (Dec. 1, 2022), <https://www.va.gov/education/benefit-rates/montgomery-600-buy-up-rates/>.

<sup>258</sup> *Montgomery GI Selected Reserve (MGIB-SR)*, Department of Veterans Affairs (Jan. 31, 2025), <https://www.va.gov/education/about-gi-bill-benefits/montgomery-selected-reserve/>.

<sup>259</sup> *Montgomery GI Bill – Selected Reserve*, Department of Veterans Affairs (April 2020), <https://benefits.va.gov/BENEFITS/factsheets/education/CH1606.pdf>.

<sup>260</sup> *Yellow Ribbon Program*, Department of Veterans Affairs (Nov. 15, 2024), <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/yellow-ribbon-program/>.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *See id.*

## Pitfalls of Some Colleges and Schools

Unfortunately, some schools have not provided the type of education that they promised. The U.S. Department of Education and state attorneys general have taken action against a number of schools for making misleading or deceptive claims about their programs, using high pressure and deceptive recruiting tactics, and making false claims about the transferability of their credits.<sup>264</sup>

### Relief for Victims of Fraud

As a result of some of these deceptive practices, many students, including veterans and servicemembers, have incurred debt for degrees or credits that are of little if any value. The Department of Education offers a way for students from these schools to receive debt relief called the Borrower Defense to Repayment Program. Veterans and servicemembers who believe their school acted deceptively or fraudulently may apply for loan forgiveness under this program. Information about the Borrower Defense program and schools who the Department of Education has taken action against can be found on the Department's website, <https://studentaid.gov/borrower-defense/>. Information about the status of actions taken against certain schools can be found at <https://studentaid.gov/announcements-events/borrower-defense-update>.

### Tools for Researching Educational Institutions

The consumer protection mantra that the educated consumer is the first line of defense is no less true in the higher education context. Beyond the promotional materials provided by a college itself, education-seekers should consult third-party resources to verify information regarding tuition, fees, financial aid eligibility, and accreditation status, among other factors. Attorneys can also use some of these resources as case origination tools by comparing a college's advertisements to the data.

### General Information

One of the first steps in researching a particular higher education institution should be the National Center for Education Statistics' College Navigator. The National Center for Education Statistics (NCES) is the pri-

mary federal entity for collecting and analyzing data related to education in the U.S. and other nations. NCES is located within the U.S. Department of Education and the Institute of Education Sciences. The College Navigator compiles a comprehensive and searchable collection of data on colleges. Data categories include tuition, fees, financial aid opportunities, enrollment and admission statistics, retention rates, graduation rates, accreditation status, and more. The College Navigator is available at: <http://nces.ed.gov/collegenavigator/>.

### Accreditation Information

Accreditation is a vitally important aspect of higher education regulation. The main purpose of accreditation is to ensure a basic level of quality among educational institutions through a system of peer evaluation.<sup>265</sup> Accreditation status is also a factor used to determine whether class credits are transferable between institutions and whether an educational program meets the pre-requisites needed for certain professional certifications and licensures.<sup>266</sup> Thus, accreditation status has a very real and tangible impact on the students' future education and employment opportunities.

The Department of Education provides a simple resource allowing servicemembers, veterans, and attorney general offices easily to ascertain the accreditation status of an educational institution. The Institution Search Tool allows users to look up educational institutions by name or location and view the accrediting agencies currently accrediting the institution. That search tool is available at <https://ope.ed.gov/dapip/#/home>.

### GI Bill Comparison Tool

The Department of Veterans Affairs GI Bill Comparison Tool is a great tool for military veterans and servicemembers to calculate their benefits eligibility with respect to the schools or training facilities they are considering. The Comparison Tool also provides easy access to other valuable information on any given educational institution, including graduation rates, loan default rates, and the median Federal loan amount for students at the school. The GI Bill Comparison Tool is available at <https://www.va.gov/education/gi-bill-comparison-tool/>.

<sup>264</sup> As explained in the prior edition of this manual, one of the incentives for schools to recruit veterans was the so called "90/10 Loophole." See NAAG Veterans Manual (1st ed.) (2015), 40-41. The 90/10 loophole was closed by Congress in 2022; however, because of the generous package of educational benefits veterans and servicemembers have access to, they are still attractive targets for less scrupulous institutions.

<sup>265</sup> *College Accreditation in the United States*, Department of Education (Jan. 14, 2025), <https://www2.ed.gov/admins/finaid/accred/accreditation.html>.

<sup>266</sup> See *The Value of Accreditation*, Council for Higher Education Accreditation (June 29, 2010), <https://www.chea.org/value-accreditation>.



## State Educational Benefits for Veterans

As previously mentioned, many states offer educational benefits to veterans, in addition to those benefits available through the DoD and the VA. The criteria for qualifying and the types of benefits available vary by state. Information on state educational benefits available to veterans can be found at the following website: <https://www.legion.org/member-services/veterans-services/veterans-education/state-benefits>.

# Employment and USERRA



Credit—Kemberly Groue, VIRIN 170321-F-BD983-045

## **ADDRESSING THE EMPLOYMENT BENEFITS AFFORDED TO MILITARY SERVICEMEMBERS UNDER THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is an incredibly powerful statute that grants servicemembers and veterans a number of rights and remedies relating to civilian employment.<sup>267</sup> It is designed “to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service; to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service; and to prohibit discrimination

against persons because of their service in the uniformed services.”<sup>268</sup> USERRA replaced the older Veterans Reemployment Rights Act, an amendment to the Military Selective Service Act of 1968, and a further recodification that was passed in 1974, the Veterans’ Readjustment Assistance Act. Case law had eroded the protections afforded in these acts and, with the nation depending more on its Reserves and National Guard components to address conflicts around the world, Congress deemed it necessary to strengthen the reemployment rights of veterans by passing the USERRA.

This Section outlines the legal framework of USERRA, including the rights granted to servicemembers and veterans, enforcement of the statute, and the remedies available. It then provides some additional resources to allow attorney general offices effectively to deal with USERRA complaints.

<sup>267</sup> See 38 U.S.C. §§ 4301-4335 (2024).

<sup>268</sup> 38 U.S.C. § 4301(a) (2024).

## Legal Framework

### Rights Conveyed

The rights granted to veterans and servicemembers under USERRA fall into three main categories: (1) a guarantee of reemployment at a previously-held civilian job following a period of active duty; (2) protection from employment discrimination on the basis of military service; (3) continuity of health insurance coverage while transitioning between civilian employment to active duty.

### Reemployment Rights<sup>269</sup>

USERRA's reemployment guarantees are some of the most substantial employment rights provided under United States law. The essential premise is that, subject to certain eligibility requirements of both employee and employer, all persons whose absence from a position of civilian employment is necessitated by reason of service in the uniformed services<sup>270</sup> shall be entitled to reemployment upon their return from that service.

**Eligibility for Reemployment.** The eligibility requirements for reemployment under USERRA are quite simple. In short, an employee must:

- Have pre-service civilian employment;
- Experience absence from employment due to service in the uniformed services;
- Provide the civilian employer advance notice of the absence;
- Be absent for not more than five cumulative years;
- Separate from the uniformed services under honorable conditions; and
- Report back to his or her civilian employer in a timely manner.<sup>271</sup>

<sup>269</sup> See 38 U.S.C. §§ 4312-4316 (2024); 20 CFR §§ 1002.180-1002.248 (2024).

<sup>270</sup> The "uniformed services" include the Armed Forces (i.e., Air Force, Army, Navy, Marine Corps, Space Force and Coast Guard), the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and any other category of persons designated by the President in time of war or national emergency. 38 U.S.C. § 4303 (17) (2024).

<sup>271</sup> See 38 U.S.C. § 4312 (2024). See also *Your Rights Under USERRA*, Department of Labor (April 2017), [https://www.dol.gov/sites/dolgov/files/VETS/legacy/files/USERRA\\_Private.pdf](https://www.dol.gov/sites/dolgov/files/VETS/legacy/files/USERRA_Private.pdf).

Some of these requirements are not strictly applicable in all situations or are otherwise more lenient than they may appear. Notice is not required if the giving of notice is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable.<sup>272</sup> The notice requirement also has few procedural requirements; notice can be verbal or written and need not be overly formal. Additionally, the computation rules for the five-year cumulative limit on absence do not count service occurring under a number of conditions, the most important of which is service performed by a servicemember who is ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress.<sup>273</sup> Since September 14, 2001, the United States has had a declared national emergency with respect to the terrorist threat.<sup>274</sup> Thus, the service of many members of the uniformed services in Iraq and Afghanistan will not count toward the 5-year limit. The limits for timely application for reemployment are on a sliding scale based on the length of service. The scale is structured as follows:<sup>275</sup>

- *"Less than 31 days of service:* [The servicemember must apply for reemployment] by the beginning of the first regularly scheduled work period [(i.e., the next workday)] after the end of the calendar day of duty, plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
- *"31 to 180 days of service:* The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
- *"181 days or more:* The employee must apply for reemployment no later than 90 days after completion of military service.
- *"Service-connected injury or illness:* Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing."

<sup>272</sup> 38 U.S.C. § 4312(b) (2024).

<sup>273</sup> 38 U.S.C. § 4312(c)(4)(B) (2024).

<sup>274</sup> See Continuation of the National Emergency with Respect to Certain Terrorist Attacks, 89 Fed. Reg. 74,101 (Sept. 9, 2024).

<sup>275</sup> Scale taken directly from *Employment Law Guide, Other Workplace Standards: Reemployment and Nondiscrimination Rights for Uniformed Services Members*, Department of Labor (Dec. 2016), <https://webapps.dol.gov/elaws/elg/userra.htm> [hereinafter *USERRA Employment Law Guide*].



**Reemployment Position.**<sup>276</sup> The full strength of USERRA’s reemployment guarantees is borne out in the reemployment position provisions. USERRA provides that “returning servicemembers are to be reemployed in the job that *they would have attained* had they not been absent for military service (the “escalator” principle), with the same seniority, status and pay, as well as other rights and benefits determined by seniority.”<sup>277</sup> USERRA also requires that “reasonable efforts (such as training or retraining) be made to enable returning servicemembers to qualify for reemployment.”<sup>278</sup>

The escalator position “may not necessarily be the same job the person previously held. For instance, if the person would have been promoted with reasonable certainty had the person not been absent, the employee would be entitled to that promotion upon reinstatement. On the other hand, depending on economic circumstances, reorganizations, layoffs, etc., the position could be at a lower level than the one previously held, it could be a different job, or it could conceivably be in layoff status. In other words, the escalator can move up or down.”<sup>279</sup>

Further, the escalator position is merely the default reinstatement position. If the servicemember cannot qualify for the escalator position, he or she may be reemployed in a similar position or in the pre-service position. If the servicemember remains unqualified for the escalator position even after an employer makes reasonable efforts to qualify the servicemember, reinstatement options depend to a degree on the length of service. Reinstatement position priority is as follows:

- *90 days or less of service:* (1) the escalator position; (2) if unqualified for the escalator position, the pre-service position; (3) if unqualified for either of the above, any other position that is the nearest approximation first to the escalator position and then to the pre-service position.<sup>280</sup>
- *91 days or more of service:* (1) the escalator position or “a position of like seniority, status, and pay;” (2) if unqualified for the escalator position or a like position, the pre-service position or a position of like seniority, status, and pay; (3) if unqualified for either of the above, any other position that is the nearest approximation first to

the escalator position and then to the pre-service position.<sup>281</sup>

A vital aspect of these reemployment provisions is that an employee is only “unqualified” if they remain unqualified after the employer’s reasonable efforts to qualify them.

Due to the stakes and the legal and factual complexity of the escalator principle, it is one of the most commonly litigated aspects of USERRA. The Department of Justice maintains a helpful online guide that may serve as a valuable starting point for additional information and resources related to asserting the rights granted by USERRA: <https://www.justice.gov/servicemembers/resources>.

**Non-Seniority Rights.** USERRA also provides that, while an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other individuals on non-military leaves of absence.<sup>282</sup>

## Protection from Discrimination<sup>283</sup>

USERRA protects servicemembers and veterans from employment discrimination and retaliation because of past, current, or future military obligations or because of attempts to enforce USERRA rights.<sup>284</sup> If an individual’s past, present, or future connection with the service is a motivating factor in an employer’s adverse employment action against that individual, the employer has committed a violation *unless* the employer can prove that it would have taken the same action regardless of the individual’s connection with the military service.<sup>285</sup> Although the employee bears the initial burden of showing that a USERRA-protected action or status was a motivating factor, the burden then shifts to the employer to prove that it would have taken the adverse action in the absence of the person’s service connection or exercise of any USERRA right.<sup>286</sup>

## Health Insurance Continuity<sup>287</sup>

USERRA also provides for continuation of servicemembers’ (and their dependents’) coverage under

<sup>276</sup> See 38 U.S.C. §§ 4304, 4313 (2024); 20 CFR § 1002.192 (2024).

<sup>277</sup> See *USERRA Employment Law Guide*, *supra* note 275 (emphasis added).

<sup>278</sup> *Id.*

<sup>279</sup> *A Guide to the Uniformed Services Employment and Reemployment Rights Act*, Department of Labor, <https://www.dol.gov/agencies/vets/programs/userra/USERRA%20Pocket%20Guide> [hereinafter “VETS USERRA Guide”].

<sup>280</sup> See 20 CFR § 1002.196 (2024); see also VETS USERRA Guide, *supra* note 279.

<sup>281</sup> See 20 CFR § 1002.197 (2024); see also VETS USERRA Guide, *supra* note 279.

<sup>282</sup> See 20 CFR §§ 1002.149-150 (2024); see also VETS USERRA Guide, *supra* note 279.

<sup>283</sup> See 38 U.S.C. § 4311 (2024); 20 CFR §§ 1002.18-23 (2024).

<sup>284</sup> See 38 U.S.C. § 4311 (2024).

<sup>285</sup> *Id.*

<sup>286</sup> See 20 CFR § 1002.22 (2024).

<sup>287</sup> See generally 38 U.S.C. § 4317 (2024); 20 CFR §§ 1002.163-171 (2024). See also VETS USERRA Guide, *supra* note 279.



health plans in connection with their employment when servicemembers are absent from work to serve in the military. If a servicemember's health plan coverage would terminate because of an absence due to military service, the person may elect to continue the health plan coverage for up to 24 months after the absence begins or for the period of service (plus the time allowed to apply for reemployment), whichever period is shorter.

A servicemember may be required to take on additional costs in order to preserve coverage. If a military absence lasts for 31 days or more, a servicemember can be required to pay up to 102 percent of the full premium for the coverage. However, if the military service lasts for 30 or fewer days, the servicemember cannot be required to pay more than the normal employee share of any premium.

### **Enforcement and Remedies**

Rights under USERRA are enforceable through administrative procedures or through civil causes of action. This Section provides a brief overview of enforcement methods and available remedies.

#### **Administrative Enforcement<sup>288</sup>**

Administrative enforcement of USERRA is done through the Department of Labor's Veterans' Employment and Training Service (VETS). At a servicemember's request, VETS will investigate complaints and attempt to resolve them through mediation if a violation is found.

VETS has the right to access, examine, and duplicate any documents that it considers relevant to an investigation. VETS also has the right of reasonable access to interview any person with information relevant to the investigation. USERRA authorizes VETS to subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation.

#### **Civil Causes of Action**

If VETS is unable to resolve a complaint, the aggrieved servicemember may request that their complaint be referred to the U.S. Attorney General (for state and private defendants) or U.S. DOJ Office of Special Counsel (for federal defendants) for possible representation in a civil cause of action.<sup>289</sup> Some recent cases filed by DOJ

relating to both USERRA and the SCRA are accessible through the DOJ website: <https://www.justice.gov/servicemembers/cases>.

An aggrieved servicemember may also bypass the administrative process altogether and bring a private civil action against an employer at the outset.<sup>290</sup>

### **Remedies**

The remedies available through administrative enforcement may include return to a job, back pay, lost benefits, corrected personnel files, lost promotional opportunities, retroactive seniority, pension adjustments, and restored vacation.<sup>291</sup>

The remedies that may be awarded in civil proceedings under USERRA are as follows:

- The court may require the employer to comply with the provisions of [USERRA];
- The court may require the employer to compensate the individual for any loss of wages or benefits suffered by reason of the employer's failure to comply with [USERRA];
- The court may require the employer to pay the individual an amount equal to the amount of lost wages and benefits as liquidated damages, if the court determines that the employer's failure to comply with [USERRA] was willful. A violation shall be considered to be willful if the employer either knew or showed reckless disregard that its conduct was prohibited by [USERRA].
- Any wages, benefits, or liquidated damages awarded are in addition to, and must not diminish, any of the other rights and benefits provided by [USERRA] (such as, for example, the right to be employed or reemployed by the employer).<sup>292</sup>

### **Role of the AGs and Additional Resources**

As is evident from the above materials regarding enforcement methods, state attorneys general have very little role in actually enforcing servicemembers' and veterans' rights under USERRA. However, this does not mean that the attorneys general have no role to play in vindicating servicemembers' and veterans' rights under

<sup>288</sup> See 38 U.S.C. §§ 4321-4327 (2024); 20 CFR § 1002.289 (2024); see also VETS USERRA Guide, *supra* note 279.

<sup>289</sup> See 38 U.S.C. §§ 4323-4325 (2024); 20 CFR § 1002.291 (2024); see also VETS USERRA Guide, *supra* note 279.

<sup>290</sup> 38 U.S.C. § 4323(a)(3) (2024); 20 CFR § 1002.303 (2024).

<sup>291</sup> USERRA Advisor, Department of Labor, <https://webapps.dol.gov/elaws/vets/userra/remedies.asp>.

<sup>292</sup> 20 CFR § 1002.312 (2024).

USERRA. The attorneys general should lead by example regarding USERRA compliance and should be able to refer USERRA complaints to the appropriate channels.

Historically, governments at all levels have been both large employers of current and former servicemembers as well as common violators of USERRA.<sup>293</sup> Armed with the knowledge of the protections provided by and the requirements of USERRA, attorneys general can ensure that their offices are USERRA-compliant and provide counsel to other state government entities on USERRA compliance.

Furthermore, attorney general offices receive complaints of all kinds. When they receive complaints amounting to potential USERRA violations, they need to be able to refer them appropriately.

For career servicemembers and veterans, the primary avenue for non-litigious resolution of a complaint is through VETS.<sup>294</sup> As noted above, VETS will investigate and attempt to resolve USERRA complaints. To begin the administrative process, VETS can be reached by phone at 1-866-4-USA-DOL. Servicemembers and veterans may also find their local VETS office by consulting the regional and state directories on the VETS website. The regional and state directories are available at <https://www.dol.gov/agencies/vets/about/regionaloffices>.

Members of the National Guard and Reserve have an additional complaint resolution avenue through **Employer Support of the Guard and Reserve (ESGR)**.<sup>295</sup> Before beginning any formal administrative complaint processes or civil litigation, guardsmen and reservists may want to attempt to resolve a USERRA complaint through ESGR's Ombudsman Services Program.<sup>296</sup> The Ombudsman Services Program provides information and mediation on issues related to USERRA. Specially trained Ombudsmen are available to assist members of the Guard and Reserve in resolving disputes with their civilian employers related to military service in the uniformed services through neutral and impartial mediation.

ESGR Ombudsmen are volunteers located throughout the United States and U.S. territories.<sup>297</sup>

ESGR's Customer Service Center can answer a USERRA question or to refer cases to a trained Ombudsman. ESGR's Customer Service Center can be reached:

- By Phone: 800-336-4590 option 1
- By Email: [osd.USERRA@mail.mil](mailto:osd.USERRA@mail.mil)
- On the web: <http://www.esgr.mil/USERRA/USERRA-Contact.aspx>.

Additional information on USERRA rights, requirements, and complaint processing procedures is available through the Department of Labor's **USERRA Advisor**. The USERRA Advisor can be found at <https://webapps.dol.gov/elaws/vets/userra/>.

### **State USERRA Statutes**

States and territories have adopted a number of different approaches to expand the protections of USERRA. Delineating the particular contours of various states' legislation is beyond the scope of this manual, but citations are provided for ease of reference in Table 2 on page 42. Given the differences in state laws, reviewing the statutory landscape in the applicable state is important to understand the rights to which a servicemember is entitled.

<sup>293</sup> Steve Vogel, *Returning military members allege job discrimination—by federal government*, Wash. Post (Feb. 19, 2012), [https://www.washingtonpost.com/world/national-security/returning-military-members-allege-job-discrimination-by-federal-government/2012/01/31/gIQAxvYvNR\\_story.html](https://www.washingtonpost.com/world/national-security/returning-military-members-allege-job-discrimination-by-federal-government/2012/01/31/gIQAxvYvNR_story.html) (reporting that in fiscal year 2011, the federal government was the employer involved in 18% of all USERRA complaints and federal, state, and local governments accounted for 27% of all USERRA cases handled by Employer Support of the Guard and Reserve, a Defense Department office which mediates USERRA complaints).

<sup>294</sup> *Veterans' Employment and Training Services*, Department of Labor, <http://www.dol.gov/vets/>.

<sup>295</sup> *What Is USERRA?*, Employer Support of the Guard and Reserve, <http://www.esgr.mil/USERRA/What-is-USERRA.aspx>.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

**Table 2: State-Level USERRA-Related Provisions**

State	USERRA-Related Provisions
Alabama	Ala. Code §§ 31-12-1 to 31-12-4
Alaska	Alaska Stat. §§ 26.05.075; 39.20.340 to 39.20.350
Arizona	Ariz. Rev. Stat. §§ 26-167, 26-168
Arkansas	Ark. Code § 12-62-413
California	Cal. Mil. & Vet. Code §§ 394 to 395.4; Cal. Lab. Code §§ 1503, 1504
Colorado	Colo. Rev. Stat. §§ 28-3-506, 28-3-601 to 28-3-612
Connecticut	Conn. Gen. Stat. §§ 5-255; 27-33a to 27-34a
Delaware	Del. Code tit. 20 § 905; tit. 29, § 5105
District of Columbia	D.C. Code §§ 1-612.03(m) to 1-612.03(m-3)
Florida	Fla. Stat. §§ 115.01 to 115.15, 250.48, 250.481, 250.482, 627.6692(5)
Georgia	Ga. Code §§ 38-2-279 to 38-2-280
Guam	4 Guam Code § 4119; 10 Guam Code § 63105
Hawaii	Haw. Rev. Stat. § 121-43
Idaho	Idaho Code §§ 46-224, 46-225, 46-407, 46-409
Illinois	330 Ill. Comp. Stat. §§ 61/1 to 61/90
Indiana	Ind. Code §§ 10-16-7-4 to 10-16-7-6, 10-16-7-23, 10-17-4-1 to 10-17-4-5
Iowa	Iowa Code §§ 29A.28, 29A.43
Kansas	Kan. Stat. § 48-517
Kentucky	Ky. Rev. Stat. §§ 38.238, 38.460, 61.394
Louisiana	La. Stat. §§ 29:38, 29:38.1, 29:401 to 29:403
Maine	Me. Rev. Stat. tit. 26, §§ 811 to 814; tit. 37-B, § 342(5-6)
Maryland	Md. Code, Pub. Safety, §§ 13-704, 13-706; Md. Code, Lab. & Empl., § 3-1001 to 3-1008
Massachusetts	Mass. Gen. Laws ch. 151B, § 4; ch. 33 § 13
Michigan	Mich. Comp. Laws §§ 32.271 to 32.274
Minnesota	Minn. Stat. § 192.34
Mississippi	Miss. Code §§ 33-1-15 to 33-1-21
Missouri	Mo. Rev. Stat. §§ 40.490, 41.730, 41.491, 105.270

State	USERRA-Related Provisions
Montana	Mont. Code §§ 10-1-1005, 10-1-1006, 10-1-1007
Nebraska	Neb. Rev. Stat. § 55-160 to 55-166
Nevada	Nev. Rev. Stat. §§ 281.145, 284.359, 412.139 to 412.1395, 412.606
New Hampshire	N.H. Rev. Stat. §§ 110-B:65, 110-C:1
New Jersey	N.J. Stat. §§ 38:23-1, 38:23C-20
New Mexico	N.M. Stat. §§ 20-4-6, 28-15-1, 28-15-2
New York	N.Y. Mil. Law §§ 242, 243, 251, 252, 317, 318
North Carolina	N.C. Gen. Stat. §§ 127A-201, 127A-202, 127A-202.1, 127B-14
North Dakota	N.D.C.C. §§ 37-01-25 to 37-01-25.2, 37-29-01, 37-29-03
Ohio	Ohio Rev. Code §§ 5903.01, 5903.02
Oklahoma	Okla. Stat. tit. 44, §§ 71, 208.1; tit. 72, § 48
Oregon	Or. Rev. Stat. §§ 659A.082 to 659A.089
Pennsylvania	51 Pa. Cons. Stat. §§ 4102, 7301 to 7309
Puerto Rico	P.R. Laws tit. 25, §§ 2082, 2083
Rhode Island	R.I. Gen. Laws §§ 30-11-1 to 30-11-9, 30-21-1
South Carolina	S.C. Code §§ 8-7-90, 25-1-2250, 25-1-2310 to 25-1-2340
South Dakota	S.D. Codified Laws § 33A-2-9
Tennessee	Tenn. Code §§ 8-33-102, 58-1-604
Texas	Tex. Govt. Code §§ 437.202, 437.204, 437.213, 613.001 to 613.023
Utah	Utah Code § 71A-8-101 to 71A-8-105
Vermont	Vt. Stat. tit. 3, § 263; Vt. Stat. tit. 21, §§ 491 to 493; Vt. Stat. tit. 20, § 608
Virgin Islands	V.I. Code tit 23, § 1525
Virginia	Va. Code §§ 44-93, 44-93.2 to 44-93.5
Washington	Wash. Rev. Code §§ 73.16.005 to 73.16.900
West Virginia	W. Va. Code §§ 15-1F-1, 15-1F-8
Wisconsin	Wis. Stat. §§ 111.321, 230.32, 321.64 to 321.66
Wyoming	Wyo. Stat. §§ 19-11-103 to 19-11-121



# Veterans Treatment Courts



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Many of our servicemembers have returned home after serving their country, including deployments overseas, to combat invisible injuries resulting from their service: post-traumatic stress syndrome, depression, anger, stress, and even traumatic brain injury. The troubling issue of increased suicide in the military and among veterans has been well documented in both mainstream media and on social media platforms.<sup>298</sup> Perhaps due to a culture that promotes “strength and stoicism,” it is often difficult for both those still in active service and those who have been discharged to seek help for these unseen injuries.<sup>299</sup> Those who suffer may turn to self-medicating and become addicted to alcohol and drugs.<sup>300</sup> Sometimes these issues contribute to a veteran becoming involved in the criminal justice system.

## History and Attributes

In 2008, a Buffalo court in Erie County, New York, started a veterans treatment court modeled after the previously established and successful drug treatment courts. The Buffalo Veterans Treatment Court allowed veterans who had become involved in the criminal justice system to come before a judge who is knowledgeable regarding veterans’ issues and the resources available to assist them.<sup>301</sup> That court has served as a national model for the over five hundred other veterans courts that have since been established in over 40 states and territories.<sup>302</sup> A vital component of the veterans treatment court is the availability of veteran mentors who understand the veterans’ experiences, help them to connect with the benefits and services they have earned, provide moral support as

<sup>298</sup> See, e.g., Leo Shane III, *New veteran suicide numbers raise concerns among experts hoping for positive news*, Military Times (Oct. 9, 2019), <https://www.militarytimes.com/news/pentagon-congress/2019/10/09/new-veteran-suicide-numbers-raise-concerns-among-experts-hoping-for-positive-news/>.

<sup>299</sup> James Polo, *Fighting a different battle: A veteran psychiatrist’s call to end military mental health stigma*, We Are the Mighty (Nov. 12, 2024), <https://www.wearethemighty.com/feature/fighting-a-different-battle-a-veteran-psychiatrists-call-to-end-military-mental-health-stigma/>.

<sup>300</sup> See Substance use treatment for Veterans, Department of Veterans Affairs (Oct. 12, 2022), <https://www.va.gov/health-care/health-needs-conditions/substance-use-problems/>.

<sup>301</sup> *About Us*, Buffalo Veterans Treatment Court, <https://www.buffaloveteranstreatmentcourt.org/about/>; *History*, Buffalo Veterans Treatment Court, <https://www.buffaloveteranstreatmentcourt.org/history>. The Court is also sometimes referred to as the Erie County Veterans Treatment Court. See *Hon. Robert Russell reflects on the founding and future of Veterans Treatment Courts*, Harvard Law Today (Dec. 5, 2016), <https://hls.harvard.edu/today/hon-robert-russell-reflects-founding-future-veterans-treatment-courts/>.

<sup>302</sup> Data concerning the locations of veteran treatment courts across the country is available at <https://ntcrc.org/maps/interactive-maps/veteran-data-table/>.



the veteran goes through the program, and assist them in getting their lives back on track and overcoming addiction.

Justice for Vets, a division of AllRise (formerly known as the National Association of Drug Court Professionals), outlines ten key components of a veterans treatment court:

1. Integrating alcohol, drug, and mental health treatment services with the justice system process.
2. Using a non-adversarial approach, the prosecution and defense work to promote public safety while protecting the participants' due process rights. Focus is placed on the veteran's recovery - not on the merits of the underlying case.
3. Identifying eligible participants early in their interactions with the justice system and promptly placing them into the Veterans Treatment Court program.
4. Providing access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitation services with the involvement of peer mentors to provide moral support and assistance for participants.
5. Frequent monitoring by drug and alcohol testing to ensure abstinence.
6. A coordinated strategy that rewards cooperation and compliance and imposes stricter requirements if needed to correct non-compliance.
7. Ongoing judicial interaction with the veteran which helps communicate to the veteran that someone in authority cares about them and is closely watching what they do, increasing the likelihood they will remain in and successfully complete treatment.
8. Monitoring, measuring, and evaluating the achievement of goals, to gauge both the individual veteran's progress and the overall effectiveness of the program.
9. Continuing education and training for all Veterans Treatment Court staff to ensure there is an understanding of veterans' issues and the resources available to assist.

10. Forging partnerships with the Department of Veterans Administration, public agencies, and other community-based organizations and support groups.<sup>303</sup>

The Department of Justice, through its Bureau of Justice Assistance, provided funding for the setting up of veterans courts, for training court personnel, and for veteran mentor programs through its Drug Court Program.<sup>304</sup> The Department of Justice began receiving a separate appropriation for veterans treatment courts in 2013, and in 2020, Congress passed the Veterans Treatment Court Coordination Act, tasking the U. S. Attorney General with establishing what, in essence, will be a nationwide Veteran Treatment Court Program. The purpose "is to ensure that the Department of Justice has a single office to coordinate the provision of grants, training and technical assistance to help State, local and Tribal governments to develop and maintain veteran treatment courts."<sup>305</sup>

The Department of Veterans Affairs, through its Veterans Justice Outreach (VJO) program attempts to identify veterans who are involved in the criminal justice system.<sup>306</sup> VJO specialist support veterans treatment courts by participating as part of the treatment team. The VA's role is limited to the treatment-related aspects of the case.<sup>307</sup>

Veterans treatment courts in different jurisdictions may differ in which veterans are eligible for their services and which offenses they will address.<sup>308</sup> For example, not all jurisdictions admit non-combat veterans.<sup>309</sup> Other courts differ concerning what charges should be addressed, for instance whether the court should handle felonies in addition to misdemeanors, or

<sup>303</sup> *Ten Key Components of Veterans Treatment Courts*, AllRise (2008), <https://allrise.org/publications/ten-key-components-of-veterans-treatment-courts/>. Justice for Vets provides a number of resources for those interested in establishing or curious about the operation of veterans' courts at <https://allrise.org/about/division/justice-for-vets/>.

<sup>304</sup> For more information concerning Bureau of Justice Assistance funding and training programs, visit their website at <https://bja.ojp.gov/program/veterans-treatment-court-program/overview>.

<sup>305</sup> 34 U.S.C. 10651a(b) (2024).

<sup>306</sup> The VJO program is an outreach initiative designed to provide legally involved veterans with linkages to VA and community resources addressing clinical needs and fostering stability. More information is available at <https://www.va.gov/lovel-federal-health-care-va/programs/veterans-justice-outreach-program/>.

<sup>307</sup> *Veterans Treatment Courts and other Veteran-focused courts served by VA Veterans Justice Outreach Specialists*, Department of Veterans Affairs (March 2022), <https://www.va.gov/HOMELESS/docs/VJO/Veterans-Treatment-Court-Inventory-Update-Fact-Sheet-March-2022-508.pdf>.

<sup>308</sup> William H. McMichael, "The Battle on the Home Front: Special Courts Turn to Vets to Help Other Vets" ABA Journal (Nov. 1, 2011), [https://www.abajournal.com/magazine/article/the\\_battle\\_on\\_the\\_home\\_front\\_special\\_courts\\_turn\\_to\\_vets\\_to\\_help\\_other\\_vets](https://www.abajournal.com/magazine/article/the_battle_on_the_home_front_special_courts_turn_to_vets_to_help_other_vets).

<sup>309</sup> *Id.*

certain categories of offenses such as domestic violence or operating under the influence charges.<sup>310</sup> A 2017 study published by the VA found that 65% of programs accepted both misdemeanor and felony cases.<sup>311</sup> Judge Robert Russell, who created the Buffalo Veterans Treatment Court, says that the distinguishing factor should be whether the behavior changed after the service or whether the defendant already had a predisposition to violence.<sup>312</sup>

While few studies have been conducted on the effectiveness of these courts,<sup>313</sup> one national study showed them to have moderate positive outcomes in various domains, including recidivism, housing, employment, and increased use of VA benefits.<sup>314</sup> According to the study, participants spent an average of nearly a year in the program and only 14% experienced a new incarceration during that period, compared to the 23 – 46% one-year recidivism rate among all U.S. prisoners.<sup>315</sup> Further, upon exiting the program 10% more participants were in their own housing, 12% more were receiving VA benefits and 1% more were employed, as compared to when they were first admitted into the program.<sup>316</sup> The study also identified certain veteran characteristics that were predictive of those various outcomes, including past incarceration history, alcohol and drug use, mental health issues, and nature of the offense(s).<sup>317</sup> While the study found that outcomes were likely due to a combination of the effectiveness of the VJO specialists engaging participants, treatment adherence of the participants, and the quality of services participants received, they believe that further study is needed to tease out the critical elements of each of those program components.<sup>318</sup>

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<sup>310</sup> *Id.*

<sup>311</sup> Flatley, B. et al., *Veterans Court Inventory 2016 Update: Characteristics of and VA involvement in Veterans Treatment Courts and other Veteran-focused court programs from the Veterans Justice Outreach Specialist Perspective*, Department of Veterans Affairs, Veterans Health Administration, (March 2017).

<sup>312</sup> McMichael, *supra* note 308.

<sup>313</sup> Byrne, J. M. et al., *New Research on Veterans Treatment Courts: An Overview of the Community Participatory Research on Veterans in Specialized Programming Project*, *Victims & Offenders* 19(1), 5–31 (Jan. 2024) (“Despite the growth of [veterans treatment courts] nationwide in recent years, the evaluation research supporting the continued development of VTCs is remarkably limited.”).

<sup>314</sup> Tsai, J. et al., *A National Study of Veterans Treatment Court Participants: Who Benefits and Who Recidivates*, *Administration and Policy in Mental Health and Mental Health Services Research* 45, 236–244 (Jul. 21, 2017), <https://doi.org/10.1007/s10488-017-0816-z>.

<sup>315</sup> *Id.*

<sup>316</sup> *Id.*

<sup>317</sup> *Id.*

<sup>318</sup> *Id.*



# Appendix A: Title 10 “Active Duty” Definition

## 10 U.S.C. § 101

[...]

(d) Duty Status. - The following definitions relating to duty status apply in this title:

- (1) The term "active duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.
- (2) The term "active duty for a period of more than 30 days" means active duty under a call or order that does not specify a period of 30 days or less.
- (3) The term "active service" means service on active duty or full-time National Guard duty.
- (4) The term "active status" means the status of a reserve commissioned officer, other than a commissioned warrant officer, who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve.
- (5) The term "full-time National Guard duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.
- (6)
  - (A) The term "active Guard and Reserve duty" means active duty or full-time National Guard duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard, pursuant to an order to active duty or full-time National Guard duty for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.
  - (B) Such term does not include the following:
    - (i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 175 of this title.
    - (ii) Duty performed as a property and fiscal officer under section 708 of title 32.
    - (iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.
    - (iv) Duty performed as a general or flag officer.



- (v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).
- (7) The term "inactive-duty training" means-
  - (A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 or any other provision of law; and
  - (B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

# **Appendix B: Attorney General Office Consumer Protection and Servicemember Contact Information and Links**

## **ALABAMA**

- Consumer Page (<https://www.alabamaag.gov/consumer-complaint/>)
- File a Complaint (<https://www.alabamaag.gov/consumer-complaint/>)
- Consumer Email Address: [ConsumerInterest@AlabamaAG.gov](mailto:ConsumerInterest@AlabamaAG.gov)
- 800-392-5658

## **ALASKA**

- Consumer Page (<http://www.law.alaska.gov/departments/civil/consumer/cpindex.html>)
- File a Complaint ([http://www.law.alaska.gov/pdf/consumer/FORM\\_complaint.pdf](http://www.law.alaska.gov/pdf/consumer/FORM_complaint.pdf))
- Consumer Email Address: [consumerprotection@alaska.gov](mailto:consumerprotection@alaska.gov)
- 888-576-2529

## **AMERICAN SAMOA**

- Consumer Page (<https://www.legalaffairs.as.gov/consumer-protection>)
- File a Complaint (<https://www.americansamoa.gov/contactus>)
- Form
- 684-633-4163

## **ARIZONA**

- Consumer Page (<https://www.azag.gov/consumer>)
- File a Complaint (<https://consumer-complaint.azag.gov/publiccomplaint/begin.aspx>)
- Consumer Email Address: [consumerinfo@azag.gov](mailto:consumerinfo@azag.gov)
- 800-352-8431

## **ARKANSAS**

- Consumer Page (<https://arkansasag.gov/divisions/public-protection/consumer-protection/>)
- File a Complaint (<https://arkansasag.gov/file-a-complaint/>)
- Consumer Email Address: [consumer@ArkansasAG.gov](mailto:consumer@ArkansasAG.gov)
- 800-482-8982

## CALIFORNIA

- Consumer Page (<https://oag.ca.gov/consumers>)
- File a Complaint (<https://www.dca.ca.gov/consumers/complaints/consumer.shtml>)
- 916-210-6276
- Military Consumer Protection: <https://oag.ca.gov/consumers/general/military>

## COLORADO

- Consumer Page (<https://www.stopfraudcolorado.gov/>)
- File a Complaint (<https://www.stopfraudcolorado.gov/about-consumer-protection/report-fraud.html>)
- 800-222-4444

## CONNECTICUT

- Consumer Page (<http://portal.ct.gov/AG/Common/Consumer-Assistance>)
- File a Complaint (<http://www.dir.ct.gov/ag/complaint/>)
- 860-808-5420

## DELAWARE

- Consumer Page (<https://attorneygeneral.delaware.gov/fraud/>)
- File a Complaint (<https://attorneygeneral.delaware.gov/fraud/cpu/complaint/>)
- Consumer Email Address: [consumer.protection@delaware.gov](mailto:consumer.protection@delaware.gov)
- (800) 220-5424
- Veterans Support Initiative: <https://attorneygeneral.delaware.gov/fraud/cpu/veterans/>

## DISTRICT OF COLUMBIA

- Consumer Page (<https://oag.dc.gov/consumer-protection>)
- File a Complaint (<https://dcforms.dc.gov/webform/oag-consumer-complaint-form#overlay-context=webform/oag-consumer-complaint-form>)
- 202-442-9828
- Consumer Email Address: [consumer.protection@dc.gov](mailto:consumer.protection@dc.gov)



## FLORIDA

- Consumer Page (<https://www.myfloridalegal.com/consumer-protection>)
- File a Complaint (<https://www.myfloridalegal.com/how-to-contact-us/file-a-complaint>)
- 850-414-3300
- Military and Veterans Assistance Program: <https://www.myfloridalegal.com/consumer-protection/mvap>

## GEORGIA

- Consumer Page (<http://consumer.georgia.gov/>)
- File a Complaint (<http://consumer.georgia.gov/consumer-services/filing-a-complaint>)
- 800-869-1123
- Military Consumer Protection Resource Page: <https://consumer.georgia.gov/consumer-topics/military-consumer-protection-resource-page>

## GUAM

- Consumer Page (<https://guamattorneygeneral.org/consumer-protection/>)
- File a Complaint ([https://drive.google.com/file/d/1Q2Ch\\_8M59s22pi2mpaK6RgRLL\\_DiWD0T/view](https://drive.google.com/file/d/1Q2Ch_8M59s22pi2mpaK6RgRLL_DiWD0T/view))
- 671-475-2720

## HAWAII

- Consumer Page (<http://cca.hawaii.gov/ocp/>)
- File a Complaint (<https://web2.dcca.hawaii.gov/ocpcomplaint/>)
- Consumer Email Address: [ocp@dcca.hawaii.gov](mailto:ocp@dcca.hawaii.gov)
- 808-586-2630

## IDAHO

- Consumer Page (<https://www.ag.idaho.gov/consumer-protection/alerts/>)
- File a Complaint (<https://www.ag.idaho.gov/office-resources/online-forms/?form=File%20a%20Complaint&complaint=Consumer%20Complaint>)
- 800-432-3545

## ILLINOIS

- Consumer Page (<https://illinoisattorneygeneral.gov/consumer-protection/>)
- File a Complaint (<https://illinoisattorneygeneral.gov/File-A-Complaint/>)
- 312-814-3000
- Military Rights: <https://illinoisattorneygeneral.gov/rights-of-the-people/military-and-veterans-rights/>

## INDIANA

- Consumer Page (<http://www.in.gov/attorneygeneral/2336.htm>)
- File a Complaint (<https://www.in.gov/attorneygeneral/2426.htm>)
- 800-382-5516
- Military Outreach: <https://www.in.gov/attorneygeneral/military-outreach2/>

## IOWA

- Consumer Page (<https://www.iowaattorneygeneral.gov/for-consumers>)
- File a Complaint (<https://www.iowaattorneygeneral.gov/for-consumers/file-a-consumer-complaint/>)
- Consumer Email Address: consumer@ag.iowa.gov
- 888-777-4590
- For Veterans and Service Members: <https://www.iowaattorneygeneral.gov/for-consumers/for-veterans-and-service-members>

## KANSAS

- Consumer Page (<https://www.ag.ks.gov/divisions/public-protection/consumer-protection>)
- File a Complaint (<https://www.ag.ks.gov/file-a-complaint/consumer-protection>)
- Consumer Email Address: cprotect@ag.ks.gov
- (785) 296-2215

## KENTUCKY

- Consumer Page (<https://www.ag.ky.gov/Resources/Consumer-Resources/Pages/default.aspx>)
- File a Complaint (<https://www.ag.ky.gov/Resources/Consumer-Resources/Consumers/Pages/Consumer-Complaints.aspx>)
- 888-432-9257
- Protections for Military Personnel: <https://www.ag.ky.gov/Resources/Consumer-Resources/Veterans/Pages/default.aspx>

## LOUISIANA

- Consumer Page (<https://www.ag.state.la.us/Division/PublicProtection>)
- File a Complaint (<https://www.ag.state.la.us/Contact>)
- Consumer Email Address: constituentservices@ag.state.la.us
- 800-351-4889

## MAINE

- Consumer Page (<http://www.maine.gov/ag/consumer/index.shtml>)
- File a Complaint ([http://www.maine.gov/ag/consumer/complaints/complaint\\_form.shtml](http://www.maine.gov/ag/consumer/complaints/complaint_form.shtml))
- 207-626-8849

## MARYLAND

- Consumer Page (<http://www.marylandattorneygeneral.gov/Pages/CPD/default.aspx>)
- File a Complaint (<http://www.marylandattorneygeneral.gov/pages/cpd/complaint.aspx>)
- Consumer Email Address: consumer@oag.state.md.us
- 888-743-0023
- Military and Veteran Resources: <https://www.marylandattorneygeneral.gov/Pages/Veterans/default.aspx>

## MASSACHUSETTS

- Consumer Page (<https://www.mass.gov/get-consumer-support>)
- File a Complaint (<https://www.mass.gov/how-to/file-a-consumer-complaint>)
- 617-727-8400
- Resources for Veterans and Servicemembers: <https://www.mass.gov/service-details/partner-with-the-attorney-generals-office-on-veterans-issues>

## MICHIGAN

- Consumer Page (<https://www.michigan.gov/ag/consumer-protection>)
- File a Complaint (<https://www.michigan.gov/ag/complaints>)
- 877-765-8388

## MINNESOTA

- Consumer Page (<http://www.ag.state.mn.us/>)
- File a Complaint (<https://www.ag.state.mn.us/Office/Complaint.asp>)
- 800-657-3787
- Veterans and Servicemembers: <https://www.ag.state.mn.us/Consumer/Vets/>

## MISSISSIPPI

- Consumer Page (<http://www.ago.state.ms.us/divisions/consumer-protection/>)
- File a Complaint (<https://www.ago.state.ms.us/divisions/consumer-protection/consumer-complaint-form/>)
- 800-281-4418

## MISSOURI

- Consumer Page (<http://ago.mo.gov/civil-division/consumer>)
- File a Complaint (<https://app.ago.mo.gov/app/consumercomplaint>)
- Consumer Email Address: [consumer.help@ago.mo.gov](mailto:consumer.help@ago.mo.gov)
- 800-392-8222
- Defenders – Military Legal Assistance Team: <https://ago.mo.gov/home/defenders>

## MONTANA

- Consumer Page (<https://dojmt.gov/office-of-consumer-protection/>)
- File a Complaint (<https://dojmt.gov/office-of-consumer-protection/consumer-complaints/>)
- Consumer Email Address: [contactocp@mt.gov](mailto:contactocp@mt.gov)
- 800-481-6896
- Montana Attorneys for Montana Veterans: <https://courts.mt.gov/probono/Resources/mamv>

## NEBRASKA

- Consumer Page (<https://protectthegoodlife.nebraska.gov/>)
- File a Complaint (<https://protectthegoodlife.nebraska.gov/file-report>)
- Consumer Email Address: [ago.consumer@nebraska.gov](mailto:ago.consumer@nebraska.gov)
- 800-727-6432

## NEVADA

- Consumer Page ([http://ag.nv.gov/About/Consumer\\_Protection/Bureau\\_of\\_Consumer\\_Protection/](http://ag.nv.gov/About/Consumer_Protection/Bureau_of_Consumer_Protection/))
- File a Complaint ([https://ag.nv.gov/Complaints/CSU\\_Complaints\\_\\_\\_FAQ/](https://ag.nv.gov/Complaints/CSU_Complaints___FAQ/))
- 888-434-9989

## NEW HAMPSHIRE

- Consumer Page (<https://www.doj.nh.gov/consumer/>)
- File a Complaint (<https://www.doj.nh.gov/citizens/consumer-protection-antitrust-bureau/consumer-complaints>)
- Consumer Email Address: [doj-cpb@doj.nh.gov](mailto:doj-cpb@doj.nh.gov)
- 888-468-4454

## NEW JERSEY

- Consumer Page (<http://www.njconsumeraffairs.gov/>)
- File a Complaint (<http://www.njconsumeraffairs.gov/Pages/File-a-Complaint-old.aspx>)
- Consumer Email Address: [askconsumeraffairs@dca.lps.state.nj.us](mailto:askconsumeraffairs@dca.lps.state.nj.us)
- 800-242-5846
- Statewide Veterans Diversion Program: <https://www.njoag.gov/programs/statewide-veterans-diversion-program/>

## NEW MEXICO

- Consumer Page (<https://nmdoj.gov/about-the-office/affirmative-litigation/#consumer-protection>)
- File a Complaint (<https://secure.nmag.gov/ECS/00000000-0000-0000-0000-000000000000/ECSIntakeItems/Introduction?i=1>)
- (505) 490-4060

## NEW YORK

- Consumer Page (<https://ag.ny.gov/bureau/consumer-frauds-bureau>)
- File a Complaint (<https://ag.ny.gov/consumer-frauds/Filing-a-Consumer-Complaint>)
- 800-771-7755
- Veterans & Servicemembers Resource Guide: <https://ag.ny.gov/sites/default/files/veteransresourceguide.pdf>

## NORTH CAROLINA

- Consumer Page (<https://ncdoj.gov/protecting-consumers/>)
- File a Complaint (<https://ncdoj.gov/file-a-complaint/consumer-complaint/>)
- 877-566-7226



## **NORTH DAKOTA**

- Consumer Page (<https://attorneygeneral.nd.gov/consumer-resources>)
- File a Complaint (<https://attorneygeneral.nd.gov/consumer-resources/consumer-complaints>)
- Consumer Email Address: [ndag@nd.gov](mailto:ndag@nd.gov)
- 800-472-2600

## **NORTHERN MARIANA ISLANDS**

- Consumer Page (<https://www.cnmioag.org/divisions/consumer-protection/>)
- File a Complaint (<https://www.cnmioag.org/contact-us/>)
- Consumer Email Address: [consumer\\_counsel@cnmioag.org](mailto:consumer_counsel@cnmioag.org)
- 670-664-2349

## **OHIO**

- Consumer Page (<http://www.ohioattorneygeneral.gov/Individuals-and-Families/Consumers>)
- File a Complaint (<http://www.ohioattorneygeneral.gov/Individuals-and-Families/Consumers/File-A-Complaint.aspx>)
- 800-282-0515
- Military and Veterans: <https://www.ohioattorneygeneral.gov/individuals-and-families/military-and-veterans>

## **OKLAHOMA**

- Consumer Page (<https://oklahoma.gov/oag/about/divisions/cpu.html>)
- File a Complaint (<https://oklahoma.gov/oag/complaints-tiplines/complaints.html#ccf>)
- Consumer Email Address: [ConsumerProtection@oag.ok.gov](mailto:ConsumerProtection@oag.ok.gov)
- 405-521-2029

## **OREGON**

- Consumer Page (<https://www.doj.state.or.us/consumer-protection/>)
- File a Complaint (<https://justice.oregon.gov/consumercomplaints/OnlineComplaints/OnlineComplaintForm/en>)
- Consumer Email Address: [help@oregonconsumer.gov](mailto:help@oregonconsumer.gov)
- 877-877-9392

## **PENNSYLVANIA**

- Consumer Page (<https://www.attorneygeneral.gov/public-protection-division/>)
- File a Complaint (<https://www.attorneygeneral.gov/submit-a-complaint/consumer-complaint/>)
- 800-441-2555
- Military & Veterans Affairs: <https://www.attorneygeneral.gov/protect-yourself/military-veteran-affairs/>

## **PUERTO RICO**

- Consumer Page (<https://www.daco.pr.gov/>)
- File a Complaint (<https://www.justicia.pr.gov/querellas-2/>)
- 787-721-2900

## **RHODE ISLAND**

- Consumer Page (<https://riag.ri.gov/consumerprotection>)
- File a Complaint (<https://riag.ri.gov/forms/consumer-complaint>)
- Consumer Email Address: consumers@riag.ri.gov
- 401-274-4400

## **SOUTH CAROLINA**

- South Carolina Department of Consumer Affairs Page (<https://consumer.sc.gov/>)
- File a Complaint (<https://consumer.sc.gov/consumer-resources/consumer-complaints>)
- 800-922-1594
- SC-VALOR Program: <https://www.scag.gov/inside-the-office/executive-division/sc-valor-program/>

## **SOUTH DAKOTA**

- Consumer Page (<https://consumer.sd.gov/>)
- File a Complaint (<https://consumer.sd.gov/complaintform.aspx>)
- Consumer Email Address: consumerhelp@state.sd.us
- 800-300-1986

## **TENNESSEE**

- Consumer Page (<https://www.tn.gov/attorneygeneral/working-for-tennessee/protecting-consumers.html>)
- File a Complaint (<https://www.tn.gov/attorneygeneral/working-for-tennessee/file-a-consumer-complaint.html>)
- Consumer Email Address: consumer.affairs@tn.gov
- 615-741-4737

## **TEXAS**

- Consumer Page (<https://www.texasattorneygeneral.gov/cpd/consumer-protection>)
- File a Complaint (<https://www.texasattorneygeneral.gov/cpd/file-a-consumer-complaint>)
- 800-621-0508

## **US VIRGIN ISLANDS**

- Consumer Page (<https://usvidoj.com/>)
- File a Complaint (<https://usvidoj.com/contact-us/>)
- 340-774-5666

## UTAH

- Consumer Page (<https://dcp.utah.gov/>)
- File a Complaint (<https://db.dcp.utah.gov/complaints.html>)
- Consumer Email Address: [consumerprotection@utah.gov](mailto:consumerprotection@utah.gov)
- 801-530-6601

## VERMONT

- Consumer Page (<https://ago.vermont.gov/divisions/consumer-protection>)
- File a Complaint (<https://ago.vermont.gov/consumer-assistance-program-complaint-form>)
- Consumer Email Address: [AGO.CAP@vermont.gov](mailto:AGO.CAP@vermont.gov)
- 800-649-2424

## VIRGINIA

- Consumer Page (<https://www.oag.state.va.us/consumer-protection/>)
- File a Complaint (<https://www.oag.state.va.us/consumer-protection/index.php/file-a-complaint>)
- 800-552-9963
- Veterans Legal Services Clinic: <https://www.oag.state.va.us/index.php/veteranslegalservices>

## WASHINGTON

- Consumer Page (<http://www.atg.wa.gov/consumer-issues>)
- File a Complaint (<https://www.atg.wa.gov/file-complaint>)
- 800-551-4636
- Legal Assistance for Veterans & Military Personnel: <https://www.atg.wa.gov/legal-assistance-veterans-military-personnel>

## WEST VIRGINIA

- Consumer Page (<http://www.ago.wv.gov/consumerprotection/Pages/default.aspx>)
- File a Complaint (<https://ago.wv.gov/publicresources/Pages/Complaint-Forms.aspx>)
- Consumer Email Address: [consumer@wvago.gov](mailto:consumer@wvago.gov)
- 800-368-8808

## WISCONSIN

- Consumer Page (<https://www.doj.state.wi.us/dls/consumer-protection>)
- File a Complaint (<https://www.doj.state.wi.us/dls/consumer-protection/how-file-consumer-complaint>)
- 608-266-1221

## WYOMING

- Consumer Page (<https://ag.wyo.gov/law-office-division/consumer-protection-and-antitrust-unit>)
- File a Complaint (<https://ag.wyo.gov/law-office-division/consumer-protection-and-antitrust-unit/consumer-complaints>)
- Consumer Email Address: [AG.Consumer@wyo.gov](mailto:AG.Consumer@wyo.gov)





# Appendix C: National Pro Bono Organizations/ Programs/Resources

*Please note: NAAG assumes no responsibility for the professional ability or integrity of the legal service providers which appear on this list. NAAG does not endorse or recommend any of these organizations.*

## **U.S. ARMED FORCES LEGAL ASSISTANCE**

- Legal Services Locator Link: <https://legalassistance.law.af.mil/>

*Legal services link locator for active duty servicemembers.*

## **U.S. DEPARTMENT OF VETERANS AFFAIRS (VA)**

- Contact:

Benefits: 1-800-827-1000

Care: 1-877-222-VETS (8387)

- Office of General Counsel – Legal Help for Veterans: <https://www.va.gov/OGC/LegalServices.asp>

*The Department of Veterans Affairs Office of General Counsel provides resources and information for veterans who may need legal help.*

- Accreditation Search Index – Attorneys, Claims Agents, or Veterans Service Organizations (VSO) Representatives: <https://www.va.gov/ogc/apps/accreditation/index.asp>
- Resources and Information for VA Accreditation: <https://www.va.gov/ogc/accreditation.asp>
- Medical Legal Partnerships and VA-Affiliated Legal Clinics (December 2024): [https://www.va.gov/HOMELESS/lsv/MLP\\_LC\\_List.pdf](https://www.va.gov/HOMELESS/lsv/MLP_LC_List.pdf)

*This resource provides a state-by-state listing of providers who hold free legal clinics in VA facilities.*

## **ABA MILITARY & VETERANS LEGAL CENTER**

*The ABA Military & Veterans Legal Center is the collective group for all of the ABA's "entities, programs, and projects focused on legal services for military personnel, veterans, and their families."<sup>319</sup> The Center provides information for servicemembers and veterans as well as for attorneys.*

- Contact:

ABA Military & Veterans Legal Center  
American Bar Association  
321 N. Clark Street, 17th Floor  
Chicago, IL 60654-7598

- Activities & Initiatives: [https://www.americanbar.org/groups/legal\\_services/milvets/initiatives/](https://www.americanbar.org/groups/legal_services/milvets/initiatives/)

*The activities and initiatives listed include the ABA Military Pro Bono Project; Operation Stand-By; ABA Free Legal Answers for Veterans; ABA Home Front; and Veterans Claims Assistance Network.*

## **ABA FREE LEGAL ANSWERS (FEDERAL)**

- Main Page: <https://abafederal.freelegalanswers.org/>

*A website designed for individuals to submit questions on civil legal matters and for pro bono attorneys to reply.*

## **ABA HOME FRONT**

*ABA Home Front is a center providing information on legal programs and organizations for veterans across the country. It includes national and state-specific organizations/programs.*

- ABA Home Front Information Center: [https://www.americanbar.org/groups/legal\\_services/milvets/aba\\_home\\_front/information\\_center/](https://www.americanbar.org/groups/legal_services/milvets/aba_home_front/information_center/)
- Directory of Legal Programs for Military Families: [https://www.americanbar.org/groups/legal\\_services/milvets/aba\\_home\\_front/directory-programs/](https://www.americanbar.org/groups/legal_services/milvets/aba_home_front/directory-programs/)

<sup>319</sup> ABA Military and Veterans Legal Center, *About Us*, American Bar Association, [https://www.americanbar.org/groups/legal\\_services/milvets/about-us/](https://www.americanbar.org/groups/legal_services/milvets/about-us/).

## **ABA MILITARY PRO BONO PROJECT**

*The Military Pro Bono Project is “managed by the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP).” The Project takes case referrals from military attorneys and works to place those cases with pro bono attorneys. The case referrals are from junior-enlisted servicemembers who are trying to handle civil legal problems.*

- Contact:

[https://www.militaryprobono.org/help/item.672-Suggestions and comments](https://www.militaryprobono.org/help/item.672-Suggestions_and_comments)

Rachael Derham  
Military Pro Bono Project Coordinator  
American Bar Association  
321 N. Clark St.  
Chicago, IL 60654  
312-988-5728

- Military Pro Bono Project Information: [https://www.militaryprobono.org/getservices/item.3217-Military Pro Bono Project Information](https://www.militaryprobono.org/getservices/item.3217-Military_Pro_Bono_Project_Information)
- Military Assistance Attorneys – Referring Cases for Pro Bono Legal Assistance: [https://www.militaryprobono.org/about/item.3214-Submit or Review Case Referrals](https://www.militaryprobono.org/about/item.3214-Submit_or_Review_Case_Referrals)
- Veterans – Find Legal Resources and Programs: [https://www.militaryprobono.org/getservices/item.3217-Military Pro Bono Project Information](https://www.militaryprobono.org/getservices/item.3217-Military_Pro_Bono_Project_Information)

## **AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA) MILITARY ASSISTANCE PROGRAM (MAP)**

*AILA MAP is a collaboration between the Legal Assistance Offices (LAO) of the U.S. Judge Advocate General’s (JAG) Corps that provides free legal assistance to active-duty servicemembers or recent veterans on immigration-related claims.*

- Contact: [probono@aila.org](mailto:probono@aila.org)
- Main: <https://www.aila.org/library/military-assistance-program>
- Request Assistance (Active Duty or Recent Veteran): <https://www.aila.org/practice/pro-bono/find-your-opportunity/military-assistance-program/client-information>

## **MILITARY ONESOURCE**

*The U.S. Department of Defense website that provides resources and guidelines for a number of issues facing service members including legal assistance.*

- Legal Assistance: <https://www.militaryonesource.mil/financial-legal/legal/>

## **NATIONAL ORGANIZATION OF VETERANS' ADVOCATES, INC. (NOVA)**

*The National Organization of Veterans' Advocates is "a national organization of attorneys and other qualified members who act as advocate for disabled veterans." The organization provides trainings, conferences, and informed updates in the area Veteran law for advocate and attorney members. The organization also provides resources for Veterans seeking legal help including an Advocate Directory.*

- Contact:

<https://www.vetadvocates.org/cpages/contact>

(202) 587-5708

- Veterans Help: <https://www.vetadvocates.org/cpages/veterans-help>
- Attorney/Agent Directory: <https://nova.silkstart.com/cpages/sustaining-members-directory>

## **NATIONAL VETERANS LEGAL SERVICES PROGRAM (NVLSP)**

*The National Veterans Legal Services Program (NVLSP) is a nonprofit organization that provides and focuses on pro bono disability claims for veterans.*

- Contact:

<https://www.nvlsp.org/about-us/contact/>

Individual Representation: (202) 265-8305

- Main Page: <https://www.nvlsp.org/>
- Lawyers Serving Warriors ® (LSW) Program: <https://www.nvlsp.org/what-we-do/lawyers-serving-warriors/>

*The program provides pro bono legal services on veteran disability issues.*

## **THE VETERANS CONSORTIUM PRO BONO PROGRAM**

*The Veterans Consortium Pro Bono Program is a national organization that provides free legal representation to veterans and their families. Services/programs include representation at the U.S. Court of Appeals for Veterans Claims, a Discharge Upgrade Program, Women Veterans Legal Assistance Program, and a Veterans Naturalization Assistance Program.*

- Contact:

<https://www.vetsprobono.org/contact/>

Filing an Appeal to the U.S. Court of Appeals for Veterans Claims Phone Number: (888) 838-7727 Option 3

Free Legal Advice & Referral Clinics Phone Number: (202) 733-3317 (only available for veterans in DC, MD, and VA)

- Legal Help: <https://www.vetsprobono.org/legal-help/>



## **STATESIDELEGAL**

*StatesideLegal provides legal information and resources for military families and is funded by the Legal Services Corporation.*

- About Us: <https://statesidelegal.org/aboutus>
- Find Legal Help: <https://statesidelegal.org/stateside-map>

## **VETLEX**

*VetLex describes itself as “a national, dedicated web-based network of coordinated pro bono service providers to serve the legal needs of veterans.” The organization does not provide legal services but acts as a referral service that connects veterans with legal service providers for pro bono or reduced fee work. It is network created by Jones Day and the ABA.*

- Veterans: <https://vetlex.org/veterans/>





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