

LAW REVIEW 17020

March 2017

USERRA Information Available

By Captain Samuel F. Wright, JAGC, USN (Ret.)

Update on Sam Wright

1.0—USERRA generally

Almost one million Reserve Component (RC)¹ personnel have been called to the colors since the terrorist attacks of September 11, 2001. The RC has been transformed from a “strategic reserve” available only for World War III (which thankfully never happened) to an “operational reserve” routinely called up for intermediate military operations like Iraq and Afghanistan. The number of actively participating RC personnel is almost equal to the number of Active Component personnel on full-time active duty, so RC personnel account for almost half of our nation’s available military personnel pool. The days when RC service was limited to “one weekend per month and two weeks in the summer” are gone, and probably gone forever. Many civilian employers are tired of the inconvenience and expense of accommodating absences from work necessitated by military training and service. The federal reemployment statute is important and relevant, now more than ever.

I invite your attention to www.roa.org/lawcenter. You will find more than 1,600 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) established this column in 1997. I am the author or co-author of more than 1,400 of the articles.

More than 1,000 of the articles are about USERRA. As I have explained in Law Review 15067 (August 2015) and many other articles, Congress enacted USERRA² and President Bill Clinton signed it into law on October 13, 1994 as a long-overdue rewrite of the Veterans’ Reemployment Rights Act (VRRRA), which was originally enacted in 1940, as part of the Selective

¹ Our nation has seven Reserve Components. In order of size, they are the Coast Guard Reserve, the Marine Corps Reserve, the Navy Reserve, the Air Force Reserve, the Air National Guard, the Army Reserve, and the Army National Guard.

² Public Law 103-353, 108 Stat. 3149. The citation means that USERRA was the 353rd Public Law enacted during the 103rd Congress (1993-94), and you can find this law, in the form that it was enacted in 1994, in Volume 108 of *Statutes at Large*, starting on page 3149. USERRA has been amended several times since 1994. It is codified in title 38 of the United States Code, at sections 4301 through 4335 (38 U.S.C. 4301-35).

Training and Service Act (STSA).³ The STSA is the law that led to the drafting of more than ten million young men (including my late father) for World War II.

I have been dealing with the VRRRA and USERRA for almost 35 years, and I have made protecting the rights of service members (especially reemployment rights and voting rights) the focus of my military career and my legal career. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the work product of an interagency task force that studied the VRRRA with a view toward suggesting improvements. President George H.W. Bush presented our draft to Congress, as his proposal, in February 1991. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft.

I have also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC).

I was the SMLC Director, as a full-time employee of ROA, for exactly six years, from June 2009 through May 2015. During that time, I received and responded to approximately 35,000 e-mail and telephone inquiries from service members, military family members, attorneys, employers, ESGR volunteers, DOL investigators, congressional staffers, reporters, and others. About half of the inquiries were about USERRA, and the other half were about other military-legal issues. Please see Law Review 15052 (June 2015) for a detailed discussion of the accomplishments of the SMLC.

My ROA employment ended May 31, 2015, but I have continued the work of the SMLC as a volunteer. I am still available by telephone or e-mail, but I am no longer in the DC metro area. You can reach me by telephone at (202) 210-4194 (cell phone) or by e-mail at samwright50@yahoo.com.

If you have questions about military-legal issues, and especially about USERRA, please check out our Law Review Library at www.roa.org/lawcenter. If you do not find the answer to your specific question, please contact me by e-mail or telephone. I will discuss the matter with you free of charge for up to one hour. If you need more than that, I will charge a very reasonable fee. If you need legal representation, I know several attorneys that I can refer you to, attorneys who are well qualified to represent plaintiffs in USERRA cases or other military-related cases.

³ Public Law 76-783, 54 Stat. 885.

If you already have an attorney, please inform the attorney of our Law Review Library and invite him or her to contact me by e-mail or telephone. The same offer applies to attorneys—up to one hour free and a reasonable fee beyond that.