



U.S. DEPARTMENT OF JUSTICE

**SERVICEMEMBERS &
VETERANS INITIATIVE**

USAO SERVICEMEMBERS TOOLKIT



U. S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

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To All United States Attorneys:

The Department of Justice is firmly committed to doing its part in serving the men and women who have dedicated their lives to protecting our country. In furtherance of this effort, earlier this year, I announced the Attorney General's creation of the **Servicemembers and Veterans Initiative**. Our goal is to enhance the Department's existing efforts by coordinating and expanding our enforcement, outreach, and training efforts on behalf of servicemembers, veterans, and their families. The Initiative is already addressing the unique challenges that servicemembers face while on active duty, veterans face upon returning home, and families face when a loved one is deployed.

It is a sad reality that servicemembers and their families face many obstacles and challenges both during and after military service. We have seen unscrupulous businesses attempt to take advantage of the stresses that servicemembers face while preparing for a deployment or when deployed overseas. We have seen businesses refuse to re-employ members of the National Guard and reserve when they return from their deployment. We have seen the denial of voting rights for servicemembers who are serving their country in foreign lands. It is vital that we at the Justice Department hold responsible parties accountable by enforcing the criminal and civil laws designed to protect servicemembers, veterans, and their families, so that they can focus on their invaluable work protecting our nation.

That is why the Department of Justice is marshalling all of its assets, including our resources at the United States Attorney's Offices, to enhance enforcement against violations of servicemembers' rights. In this past year alone, our collaboration across the Department has resulted in historic settlements under the Servicemembers Civil Relief Act ("SCRA") and wide ranging resolutions under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To help continue and build upon this constructive collaboration, we have developed a Servicemembers Toolkit containing information that will be useful to your office in taking effective enforcement action under both USERRA and the SCRA, as well as under the Uniformed and Overseas Citizens Absentee Voting Act and the numerous statutes under which both civil and criminal complaints may be brought against those who seek to commit financial crimes against servicemembers and veterans.

We greatly appreciate the Attorney General's Advisory Committee, and in particular the Servicemembers and Veterans Rights Working Group, for their leadership and support. Working together, I know we can increase our effectiveness, our scope, and our results, and get a little closer to repaying the debt of gratitude that we owe to our servicemembers and veterans community.

Thank you for all you do.



Stuart F. Delery
Acting Associate Attorney General

The Servicemembers and Veterans Initiative and the Offices of the United States Attorneys are dedicated to enforcing the civil and criminal statutes that address the rights of servicemembers, veterans, and their families. This toolkit provides lawyers and other legal practitioners with the tools to protect our servicemembers in the areas of employment, housing and financial affairs, voting, and financial fraud.

The following enforcement areas and resources are provided herein:

Employment Rights

Housing and Financial Affairs

Voting Rights

Financial Fraud

Legislative Updates

Other Resources

Employment Rights – USERRA

Members of the armed forces who serve their country, whether on overseas deployments, temporary reserve duty, or other forms of military service, have special employment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. No. 103-353, 108 Stat. 3149 (codified in scattered sections of 38 U.S.C.), commonly referred to as “USERRA.” In passing USERRA, Congress intended to clarify and strengthen prior veterans’ rights statutes and encourage non-career service in the military. The basic purpose of USERRA is to ensure that servicemembers who leave their civilian employment and serve honorably in support of the mission of the United States’ military have the assurance that once their service is completed, they will be able to return to their civilian careers with as little disruption and difficulty as possible. As of September 2017, the Department of Justice, working with Offices of the United States Attorneys (“USAOs”), has filed 101 USERRA lawsuits either on behalf of or representing servicemembers. Almost 50 USAOs throughout the country have assisted in achieving those results.

Background

- USERRA entitles servicemembers to return to their civilian employment upon completion of their military service with the seniority, status and rate of pay that they would have obtained had they remained continuously employed by their civilian employer. USERRA also prohibits discrimination based on present, past, and future military service.
- The Attorney General has authority to bring lawsuits against private, state, and local government employers for violations of USERRA only upon receiving complaint referrals from the Department of Labor (“DOL”). Prior to referral, DOL’s Veterans’ Employment and Training Service (“VETS”) investigates and attempts to resolve servicemember complaints. If the Attorney General is reasonably satisfied that the servicemember is entitled to relief, the Attorney General may commence an action in federal court on behalf of the servicemember. If the employer is a state or state agency, the action is brought in the name of the United States. In all other cases, the United States files suit in the name of the servicemember.
- In cases where the Attorney General does not bring the case against a state employer, an individual is often precluded from bringing suit.
- The Attorney General has assigned responsibility for handling USERRA referrals to the Civil Rights Division of the United States Department of Justice. Within the Division, USERRA referrals are assigned to the Employment Litigation Section, which often handles the referrals in cooperation with local USAOs.
- USERRA currently allows for recovery of lost wages, lost benefits, and liquidated damages up to double that amount.

USERRA Resources

[USERRA Statute](#)

[USERRA Regulations](#)

[Department of Labor USERRA Final Rules](#)

[Department of Labor USERRA FY 2016 Report to Congress](#)

[USERRA Poster](#)

[Department of Labor Intake Form](#)

Department of Justice Pleadings and Case Examples

Van Sawin v. Pierce County Transit Authority

[Press Release](#)

Summary:

On June 1, 2017 the Department of Justice reached a settlement agreement with Pierce County Transportation Benefit Area Corporation of Pierce County, Washington, resolving allegations that Pierce Transit violated the USERRA rights of Washington Army National Guard Member Lieutenant Colonel C. Van Sawin. According to allegations brought by LTC Sawin, and independently investigated by the DOJ, Pierce Transit violated USERRA by failing to reemploy LTC Sawin in September 2016 after he returned from active duty military service. LTC Sawin is a United States Military Academy graduate who served on active duty as a U.S. Army Battalion Maintenance Officer. LTC Sawin has also served as a reservist and, between 2005 and 2006, deployed to Iraq in support of Operation Iraqi Freedom. Under the terms of the settlement agreement, which is not an admission of liability by Pierce Transit, Pierce Transit paid LTC Sawin \$105,000 to compensate him for lost and/or reduced wages and benefits, and other damages. Additionally, the settlement required Pierce Transit to adopt a USERRA policy, to provide training to its high-level officials and human resources staff on the USERRA rights and obligations of employers and covered employees, and to report allegations of violations of USERRA and certify its compliance therewith to the DOJ for a period of two years. Pierce Transit also agreed to resolve any dispute about the agreement in the United States District Court for the Western District of Washington.

Jonathan Melendez V. Duval County Sheriff's Department

[Press Release](#)

Summary:

On September 19, 2017, the United States Department of Justice resolved a claim that the Duval County Sheriff's Department violated the USERRA rights of U.S. Army Reservist Jonathan J. Melendez (Melendez) by terminating him on two occasions and retaliating against him after he pursued his claims in violation of USERRA. Specialist Melendez was hired as a Deputy Sheriff on March 14, 2014, by the Duval County Sheriff's Department. On October 8, 2015, Melendez enlisted in the U.S. Army Reserves. Melendez alleged that Duval County discriminated against him in violation of USERRA on four occasions. These occasions include Melendez's termination from the Sheriff's Department on January 1, 2016 while he was on leave for active military duty, his belated rehire upon his return from military duty in April 2016, and his termination again in October 2016 after he continued to pursue a USERRA lost wages claim against his former employer. Under the terms of the settlement, Duval County has agreed to compensate Melendez for his lost wages and benefits, and pay him liquidated damages.

Housing and Financial Affairs – SCRA

The Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. §§ 3901-4043, is a federal law that provides protections for military members as they enter active duty. It covers issues such as rental agreements, security deposits, prepaid rent, evictions, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, automobile leases, life insurance, health insurance, and income tax payments.

Background

- The Civil Rights Division of the Department of Justice, created in 1957 by the enactment of the Civil Rights Act of 1957, works to uphold the civil and constitutional rights of all Americans, particularly some of the most vulnerable members of our society. As part of this work, the Civil Rights Division is tasked with enforcing the SCRA.
- The SCRA, enacted in 2003 and amended several times since then, revised and expanded the Soldiers’ and Sailors’ Civil Relief Act of 1940 (SSCRA), a law designed to ease financial burdens on servicemembers during periods of military service.
- The location of the SCRA within the United States Code recently changed. Previously found at (codified and cited as) 50 U.S.C. App. §§ 501-597b, there was an editorial reclassification of the SCRA by the Office of the Law Revision Counsel of the United States House of Representatives that became effective on December 1, 2015. The SCRA is now found at (codified as) 50 U.S.C. §§ 3901-4043.

Overview

- “[T]he Act [SCRA] must be read with an eye friendly to those who dropped their affairs to answer their country’s call.” Le Maistre v. Leffers, 333 U.S. 1, 6 (1948) (citing Boone v. Lightner, 319 U.S. 561, 575 (1943)). Restated, the SCRA should generally be read in favor of the servicemembers it is intended to protect.
- Under the SCRA, the Attorney General is authorized to file a federal lawsuit against any person (or entity) who engages in a pattern or practice of violating this law. The Attorney General may also file such a suit where the facts at hand raise “an issue of significant public importance.” When the Attorney General files a lawsuit under the SCRA, he has the authority to seek monetary damages on behalf of individual servicemembers. The Attorney General also has the authority to seek civil penalties, equitable relief, and declaratory relief. See Section 4041 (formerly Section 597).
- In order to have an individual SCRA case reviewed by the Department of Justice, non-attorneys must first seek the assistance of a military legal assistance office.

See <http://legalassistance.law.af.mil/content/locator.php>. If that office cannot resolve the complaint, it may choose to forward the complaint to the Department. The Department then will review the matter to determine whether action by the United States is appropriate.

- The SCRA provides a wide range of benefits and protections to those in military service. Military service is defined under the SCRA as including: 1) full-time active duty members of the five military branches (Army, Navy, Air Force, Marine Corps and Coast Guard); 2) Reservists on federal active duty; and 3) members of the National Guard on federal orders for a period of more than 30 days. Servicemembers absent from duty for a lawful cause or because of sickness, wounds, or leave are also covered by the SCRA. Finally, commissioned officers in active service of the Public Health Service (PHS) or the National Oceanic and Atmospheric Administration (NOAA) are covered by the SCRA. See Section 3911 (formerly Section 511).
- The SCRA also provides certain benefits and protections to servicemember dependents and, in certain instances, to those who co-signed a loan for, or took out a loan with, a servicemember. The term “dependent” includes a servicemember’s spouse, children, and any other person for whom the servicemember has provided more than half of their financial support for the past 180 days. See Section 3911 (formerly Section 511) and Section 3913 of the SCRA (formerly Section 513).
- For most servicemembers, SCRA protections begin on the date they enter active duty military service. For military reservists, protections begin upon the receipt of certain military orders.

Specific Benefits and Protections

The SCRA’s benefits and protections include a six percent interest rate cap on financial obligations that were incurred prior to military service; the ability to stay civil court proceedings; protections in connection with default judgments; protections in connection with residential (apartment) lease terminations; and protections in connection with evictions, mortgage foreclosures, and installment contracts such as car loans. The following is a description of those SCRA benefits and protections that trigger the most questions received by the Department of Justice.

Benefit and Protection No. 1 – The six percent interest rate cap – Section 3937 of the SCRA (formerly Section 527)

- The SCRA limits the amount of interest that may be charged on certain financial obligations that were incurred prior to military service to no more than six percent per year, including most fees. In order to have the interest rate on a financial obligation such as a credit card or a mortgage capped at six percent per year, a servicemember must provide the creditor with a copy of his or her military orders and a written notice. The written notice and military orders must be provided to creditor within 180 days of the end of the servicemember's military service
- In response to receiving the written notice and military orders, a creditor must forgive – not defer – interest greater than six percent per year. The creditor must forgive this interest retroactively and is prohibited from accelerating the payment of principal.
- For mortgages, interest is capped at six percent during the entire period of military service and for one year after the period of military service. For all other obligations, interest is capped at six percent only for the duration of the period of military service.
- A hypothetical under Section 3937 (formerly Section 527) of the SCRA: John Doe takes out a mortgage and then enters military service. Captain John Doe is in military service continuously for 20 years. Captain Doe retires from military service and on the 179th day of his retirement requests that the interest rate on his mortgage be lowered to six percent per year. The creditor must forgive the entire 20 years of interest that was at a rate greater than six percent – inclusive of fees – and an additional year of interest going forward.
- A creditor may avoid reducing the interest rate to six percent per year only by going to court and having that court determine that the servicemember's ability to pay interest at rate higher than six percent per year is not "materially affected" by the servicemember's military service.
- The following types of financial obligations, among others, are currently eligible for the six percent SCRA interest rate benefit: credit cards; automobile, ATV, boat and other vehicle loans; mortgages; home equity loans; and student loans.

- Prior to August 14, 2008, the SCRA did not cover federally guaranteed student loans. On August 14, 2008, President Bush signed into law the Higher Education Opportunity Act, P.L. 110-315, that, among other things, amended 20 U.S.C. § 1078(d) to make federally guaranteed student loans protected under the SCRA. Student loans typically have a ten year term. There are four types of student loans: 1) private loans (which have always been covered by the SCRA); 2) Direct Department of Education Student Loans; 3) student loans originated under the Federal Family Education Loan (“FFEL”) Program that are owned by the Department of Education; and 4) student loans originated under the FFEL program that are not owned by the Department of Education. The last three types of student loans are federally guaranteed and were not covered by the SCRA until August 14, 2008. So, for Direct Department of Education Student Loans and FFEL loans that originated before August 14, 2008, the servicemember borrower is not covered by the SCRA.
- A student loan hypothetical under Section 3937 of the SCRA (formerly Section 527): John Doe takes out five private student loans prior to entering into military service. After entering military service, Servicemember Doe consolidates his five loans into one loan. Six months later, he hears about the SCRA’s six percent interest rate cap and wants the interest rate on his loan lowered to six percent per year. He sends in written notice and a copy of his military orders.

Question: Is Servicemember Doe entitled to the six percent interest rate cap?

Answer: Servicemember Doe is entitled to the six percent interest rate cap only for the period of time between when he entered military service and when he consolidated his private student loans. Once Servicemember Doe consolidated his student loans, it created a brand new loan that was not taken out pre-military service.

Benefit and Protection No. 2 – Protections against default judgments – Section 3931 of the SCRA (formerly Section 521)

- In any civil court proceeding in which the defendant servicemember does not make an appearance, a plaintiff creditor must file an affidavit with the court stating one of three things: 1) that the defendant is in military service; 2) that the defendant is not in military service; or 3) that the creditor is unable to determine whether or not the defendant is in military service after making a good faith effort to determine the defendant’s military service status. It comes up most frequently for the Department of Justice in the context of judicial foreclosure proceedings. [Note: Foreclosures can proceed in one of two ways, either judicially (through a court process), or non-judicially (without a court’s involvement). The way in which the SCRA treats the two types of foreclosure proceedings is very different.]
- To verify an individual’s military service status, best practices involve searching the Department of Defense’s (DOD) Defense Manpower Data Center (DMDC) database. This may be found online at: <https://scra.dmdc.osd.mil/scra/#/home>.

- The SCRA states that for civil court proceedings where a defendant servicemember has not made an appearance and it seems that he or she is in military service, a court may not enter a default judgment against that defendant until after it appoints an attorney to represent the interests of that defendant servicemember. The court must stay a civil court proceeding for at least 90 days if that appointed attorney has been unable to contact the defendant servicemember, or if there may be a defense to the action that requires that the defendant be present.

Benefit and Protection No. 3 – Non-judicial foreclosures – Section 3953 of the SCRA (formerly Section 533)

- Section 3953 of the SCRA (formerly Section 533) addresses the topic of mortgages and non-judicial foreclosures. In order for a servicemember to receive the protections of Section 3953 of the SCRA, the “obligation on real or personal property” needs to have been taken out prior to the servicemember entering military service.
- Under Section 3953 of the SCRA (formerly Section 533), during a period of military service, and for one year after a period of military service, a creditor must get a court order prior to foreclosing on a mortgage. This is a strict liability section of the SCRA, and a person who knowingly violates this provision may be fined and/or imprisoned for up to one year.
- On March 31, 2016, the President signed into law S. 2393, the “Foreclosure Relief and Extension for Servicemembers Act of 2015,” that, inter alia, amended the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 to extend through 2017 the one-year tail coverage period after a servicemember's military service during which any covered foreclosure is invalid without a court order.
- Under Section 3953 of the SCRA (formerly Section 533), a court may on its own – and shall upon application by a servicemember – stay a non-judicial foreclosure proceeding or adjust the obligation, provided that the servicemember's ability to meet the obligation is materially affected by reason of his or her military service.

Benefit and Protection No. 4 – Installment contracts and repossessions – Section 3952 of the SCRA (formerly Section 532)

- The SCRA states that a creditor may not repossess a vehicle during a borrower's period of military service without a court order as long as the servicemember borrower either placed a deposit for the vehicle, or made at least one installment payment on the contract, before entering military service.

Benefit and Protection No. 5 – Residential (apartment) lease terminations – Section 3955 of the SCRA (formerly Section 535)

- Section 3955 of the SCRA (formerly Section 535) addresses the topic of lease terminations. With respect to residential apartment leases, the SCRA requires that the premises be occupied (or are intended to be occupied) by a servicemember or a servicemember's dependent(s). Additionally, the lease must either be executed by a person who later enters military service, or is in military service and later receives permanent change of station ("PCS") orders or deployment orders for a period of at least 90 days. To terminate a residential lease, the servicemember must submit a written notice and a copy of his or her military orders – or a letter from a commanding officer – by hand delivery, United States Postal Service return receipt requested, or private carrier to the landlord or landlord's agent.
- Under Section 3955 of the SCRA (formerly Section 535), if a servicemember pays rent on a monthly basis, once he or she gives proper notice and a copy of their military orders, then the lease will terminate 30 days after the next rent payment is due.
- A lease termination hypothetical under Section 3955 of the SCRA (formerly Section 535): Jane Servicemember receives PCS orders to transfer from Iowa to Texas. She gives her landlord written notice of her intent to terminate her apartment lease and a copy of her PCS order on September 18th. Her next rent payment is due on October 1st. The effective date of the lease termination will be Halloween – October 31st.

Waivers

At present, any of the rights and protections provided for in the SCRA may be waived. For contracts, leases (including apartment leases) and mortgages, all modifications, terminations and cancellations require a written waiver of rights. Such written waivers are effective only if executed during or after the relevant period of military service. Written waivers must be in at least 12 point font. In order to be effective, the written waiver must be its own document. All of this information is found in Section 3918 of the SCRA (formerly Section 517).

Department Of Justice Pleadings And Case Information By Topic

- **TOWING**
Andre Gordon v. Pete's Auto Service of Denbigh, Inc. (4th Cir.)
[summary](#) [brief for the United States as amicus curiae in support of plaintiff-appellant urging reversal \(4/6/10\)](#) [supplemental brief for the United States as amicus curiae in support of plaintiff-appellant urging reversal \(11/29/10\)](#) [opinion - reversed and remanded \(2/14/11\)](#)

- **LANDLORD/TENANT (NON-PATTERN OR PRACTICE)**
 United States v. Akhavan (E.D. Va.)
[summary](#) [complaint](#) [consent order](#) [press release \(9/24/09\)](#)

 United States v. Crowe (M.D. Ala.)
[summary](#) [complaint \(6/13/17\)](#) [settlement agreement \(6/16/17\)](#)

 United States v. Occoquan Forest Drive, LLC (E.D. Va.)
[summary](#) [complaint](#) [memorandum opinion \(2/14/13\)](#)
- **LANDLORD/TENANT (PATTERN OR PRACTICE)**
 United States v. Empirian Property Management, Inc. (D. Neb.)
[summary](#) [complaint](#) [consent order](#) [press release \(3/1/12\)](#)
- **FINANCIAL INSTITUTION (ENTERPRISE WIDE)**
 United States v. Capital One, N.A. (E.D. Va.)
[summary](#) [complaint](#) [amended consent order](#) [press release \(7/26/12\)](#)
- **FINANCIAL (STUDENT LOANS)**
 United States v. Sallie Mae, Inc. (D. Del.)
[summary](#) [complaint \(5/13/14\)](#) [consent order \(9/29/14\)](#) [press release \(5/13/13\)](#) [Attorney General Eric Holder Speaks at Press Conference \(5/13/14\)](#) [press release \(5/28/15\)](#)
- **MORTGAGE FORECLOSURES**
 United States v. Bank of America Corp., Citibank, NA, JPMorgan Chase & Co., Ally Financial, Inc. and Wells Fargo & Co. (D.D.C.) (Please refer to Exhibit H for the SCRA portion of this settlement)
[summary](#) [complaint](#) [consent judgment with JPMorgan Chase & Co.](#) [exhibits](#) [press release \(2/9/15\)](#) [press release \(9/30/15\)](#)
- **STORAGE**
 United States v. Horoy, Inc. d/b/a Across Town Movers (S.D. Cal.)
[summary](#) [complaint \(3/16/15\)](#) [press release \(3/16/15\)](#) [consent order \(5/15/15\)](#) [press release \(5/18/15\)](#)
- **VEHICLE REPOSSESSIONS**
 United States v. Santander Consumer USA, Inc. (N.D. Tex.)
[summary](#) [complaint \(2/25/15\)](#) [consent order \(2/26/15\)](#) [addendum to consent order \(3/27/15\)](#) [press release \(2/25/15\)](#)

United States v. COPOCO Community Credit Union (E.D. Mich.)
[summary](#) [complaint \(7/26/16\)](#) [press release \(7/26/16\)](#) [Opinion and Order Denying Defendant's Motion to Dismiss \(1/5/17\)](#) [response to motion to dismiss \(9/19/16\)](#) [settlement agreement \(7/6/17\)](#) [press release \(7/6/17\)](#)

United States v. HSBC Finance Corp. (N.D. Ill.)
[summary](#) [complaint \(8/8/16\)](#) [proposed consent order \(8/8/16\)](#) [press release \(8/8/16\)](#)

United States v. Wells Fargo Bank, N.A. d/b/a Wells Fargo Dealer Services (C.D. Cal.)
[summary](#) [complaint \(9/29/16\)](#) [proposed consent order \(9/29/16\)](#) [press release \(9/29/16\)](#)

United States v. CitiFinancial Credit Co. (N.D. Tex.)
[summary](#) [complaint \(9/18/17\)](#) [settlement agreement \(9/18/17\)](#) [press release \(9/18/17\)](#)

- **EVICTIONS**

United States v. San Diego Family Housing, LLC (S.D. Cal.)
[complaint](#) [consent order](#) [press release](#)

Voting Rights – UOCAVA

The Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) requires that the states and territories allow certain U.S. citizens who are away from their homes, including members of the uniformed services and the United States Merchant Marine (“USMM”), along with their family members, to register and vote absentee in federal elections.

Background

- UOCAVA) was previously codified and cited as 42 U.S.C. §§ 1973ff -1973ff-7, but there was an editorial reclassification of UOCAVA by the Office of the Law Revision Counsel of the United States House of Representatives that became effective on September 1, 2014. UOCAVA is now codified as 52 U.S.C. §§ 20301-20311, under a new title, “Voting and Elections,” the subtitle, “Voting Assistance and Election Administration,” and as Chapter 203, “Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office.”
- Provisions similar to 52 U.S.C. §§ 20301-20311 were contained in subchapters I–D and I–E (§§ 1973cc et seq. and §§ 1973dd et seq.) of chapter 20 of title 42 prior to repeal by Pub. L. 99–410, and then in subchapter I–G (§§ 1973ff et seq.) of chapter 20 of title 42 prior to the September 1, 2014 editorial reclassification of UOCAVA.
- Among its key provisions, UOCAVA provides for an application called the Federal Post Card Application (“FPCA”) that qualified applicants can use to both register to vote and request an absentee ballot simultaneously.
- UOCAVA also allows for the use of a “back-up” ballot for federal offices called the Federal Write-In Absentee Ballot (“FWAB”). Subject to certain conditions, this ballot may be cast by UOCAVA covered voters who have made timely application for, but have not yet received, their regular ballot from their state or territory.
- UOCAVA has been amended on several occasions, with the most recent major amendments found in the Military and Overseas Voter Empowerment Act of 2009 (MOVE).

- In 2009, MOVE, a subtitle of the National Defense Authorization Act (NDAA) for Fiscal Year 2010, amended UOCAVA to establish new voter registration and absentee ballot procedures which states must follow in all federal elections. The majority of these new procedures were implemented by the time of the November 2010 general election. As amended by MOVE, UOCAVA requires state officials to: 1) provide UOCAVA covered voters with an option to request and receive voter registrations and absentee ballot applications electronically; 2) create electronic delivery options for the transmission of blank absentee ballots to UOCAVA covered voters; 3) transmit validly and timely requested absentee ballots to UOCAVA covered voters no later than 45 days before a federal election; 4) implement safeguards to ensure that the privacy of the voter's identity and other personal data associated with registering and voting under UOCAVA procedures is protected; 5) implement safeguards to ensure that electronic transmission procedures protect the security and integrity of the balloting process; 6) accept otherwise valid voter registration applications, absentee ballot applications, voted ballots, or FWABs without regard to state notarization requirements or restrictions on paper and envelope type; and 6) allow UOCAVA covered voters to track the receipt of their absentee ballots through a free access system.
- MOVE also amended UOCAVA to expand the acceptance of the FWAB to all elections for federal office as of December 31, 2010.

UOCAVA - Section By Section

Section 20301 -- Federal Responsibilities, 52 U.S.C. § 20301

- This section of UOCAVA requires the President to designate the head of an executive department to have responsibility for UOCAVA's federal functions. On June 9, 1988, President Reagan issued Executive Order 12642 which designated the Secretary of Defense as the individual responsible for administering UOCAVA. Executive Order 12642 also granted the Secretary of Defense the authority to delegate UOCAVA responsibilities to others within the Department of Defense ("DOD"). The DOD's Federal Voting Assistance Program ("FVAP") is tasked with administering UOCAVA on behalf of the Secretary of Defense.
- The Secretary of Defense is tasked with 11 federal UOCAVA duties under Section 20301, 52 U.S.C. § 20301. Specifically, the Secretary of Defense is required to:
 1. consult with state and local election officials and educate these officials on UOCAVA's requirements;
 2. create an official post card form to be used by qualified military members, mariners part of the USMM, commissioned officers of PHS and NOAA, eligible family members associated with these three groups, and overseas citizens to both register to vote and request an absentee ballot simultaneously;
 3. handle the creation, implementation, and administration of the FWAB program for UOCAVA covered voters;
 4. create an envelope design for absentee ballots;

5. compile and distribute materials and facts on specific elections and state absentee voter registration and voting procedures.
6. prepare a report for Congress and the President on UOCAVA's effectiveness after each Presidential election;
7. prescribe a standard oath to be used in connection with certain official UOCAVA documents;
8. implement procedures to collect and deliver absentee ballots of UOCAVA covered voters;
9. protect the privacy rights of UOCAVA covered voters and safeguard the information contained in all completed absentee ballots cast at DOD locations or facilities;
10. develop portals and programs to provide UOCAVA covered voters with voter registration and absentee ballot information; and
11. work with the Election Assistance Commission ("EAC") and each state's chief election official to develop standards for reporting and storing state absentee ballot data.

Under UOCAVA, each state also has 11 duties. Those duties, found at Section 20302, 52 U.S.C. § 20302, require each state to:

1. permit UOCAVA covered voters to vote by absentee ballot in federal elections;
2. accept and process any timely received voter registration and absentee ballot applications from UOCAVA covered voters.
3. permit UOCAVA covered voters to use a FWAB to vote in general elections for federal office;
4. permit qualified military members, mariners part of the USMM, commissioned officers of PHS and NOAA, eligible family members associated with these three groups, and overseas citizens to use the official post card form to both register to vote and request an absentee ballot simultaneously;
5. use the standard oath created by the Secretary of Defense in connection with certain official UOCAVA documents;
6. (and 7): establish procedures for UOCAVA covered voters to request and receive, by electronic or United States Postal Service delivery means, voter registration and absentee ballot applications, as well as absentee ballots;
8. transmit validly requested absentee ballots to UOCAVA covered voters, subject to certain timing exclusions and limitations;
9. establish a written plan for absentee ballots to timely be made available to UOCAVA covered voters in the event of a runoff election for a federal office;
10. carry out the Secretary of Defense's procedures for accepting and processing completed absentee ballots from UOCAVA covered voters; and
11. provide the EAC data on UOCAVA ballots not later than 90 days after each general election for federal office.

The remaining sections of UOCAVA address the following topics:

1. Section 20303, 52 U.S.C. § 20303, sets forth the procedures associated with, and the processing of, FWABs;

2. Section 20304, 52 U.S.C. § 20304, sets forth the procedures for collecting marked absentee ballots, including FWABs, from UOCAVA covered voters, and the procedures for delivering such ballots to election officials;
3. Section 20305, 52 U.S.C. § 20305, details the Secretary of Defense's responsibility to develop portals and programs to provide UOCAVA covered voters with voter registration and absentee ballot information;
4. Section 20306, 52 U.S.C. § 20306, prohibits a state from refusing to accept or process any otherwise valid voter registration or absentee ballot application submitted by a uniformed services voter because such registration or application was submitted earlier than the first date upon which that state accepts such registrations and applications from non-UOCAVA covered absentee voters who are not members of the uniformed services;
5. Section 20307, 52 U.S.C. § 20307, permits the Attorney General (AG) to file suit in any appropriate federal district court to enforce UOCAVA, and gives the AG the authority to seek declaratory or injunctive relief. Finally, Section 20307 requires the AG to submit an annual report to Congress on any civil action brought by the United States under UOCAVA during the preceding year;
6. Section 20308, 52 U.S.C. § 20308, contains reporting requirements and calls for the Secretary of Defense to, by March 31st of each year, submit an annual report to Congress on the FVAP, UOCAVA covered voters, and state and federal efforts to uphold the requirements of UOCAVA;
7. Section 20309, 52 U.S.C. § 20309, states that exercising rights under UOCAVA shall not affect, for purposes of any federal, state, or local tax, the residence or domicile of the person;.
8. Section 20310, 52 U.S.C. § 20310, contains the definitions for certain terms used in UOCAVA; and
9. Section 20311, 52 U.S.C. § 20311, permits the Secretary of Defense to create one or more pilot programs to study the use of new election technology that could benefit UOCAVA covered voters.

UOCAVA Case Examples

- ***United States v. State of Illinois***: The Department's most recent UOCAVA case was filed on April 6, 2015, ensured that military and overseas citizens in Illinois had sufficient time to vote in special elections for filling vacancies in the United States House of Representatives. The Department entered into a consent decree that ensured that special elections to fill a recent vacancy in an Illinois congressional district were scheduled so that absentee ballots were sent by the 45th day before the special primary and the following special election as UOCAVA requires. The agreement, which was approved by the court on April 14, 2015, also provided that the State will pursue a permanent change to state law to ensure compliance with UOCAVA in the future. In 2015, the State adopted legislation designed to ensure compliance in all future special elections for United States House of Representatives.

- ***United States v. West Virginia***: On December 22, 2014, West Virginia was ordered by a court to count UOCAVA ballots that may have been received after election day and include them in the final vote totals for the November 4, 2014 Federal general election following suit by the Civil Rights Division. The case remedied violations of UOCAVA that arose after the State had transmitted ballots to military and overseas voters by in October of 2014 which was not at least 45 days before the November 4, 2014 Federal election. On October 31, the Department filed a complaint alleging that West Virginia had violated UOCAVA by failing to ensure that final absentee ballots were transmitted to UOCAVA voters at least 45 days in advance of the November 4, 2014 Federal general election.

UOCAVA Resources

[Federal Post Card Application](#)

[Federal Voting Assistance Program \(FVAP\)](#)

[Department of Justice 2016 Annual Report to Congress](#)

Financial Fraud

The Department of Justice is dedicated to combating financial fraud and other scams targeting servicemembers, veterans, and their families each year. Financial fraud can be especially devastating to those servicemembers serving overseas who may not have the ability to enforce their rights here at home. The Department of Justice, using all the civil and criminal tools at our disposal including the civil and criminal units at the USAOs and collaborating with our enforcement partners at the Federal Trade Commission (“FTC”), the Securities and Exchange Commission (“SEC”) and the Consumer Financial Protection Bureau (“CFPB”), is working hard to strengthen our role in protecting servicemembers from financial fraud. Within the Department of Justice, this important work is handled by the Civil Division’s Consumer Protection Branch.

Financial Fraud Statutes Enforced

[The Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101 - 6108](#)

[The Truth in Lending Act, 15 U.S.C. §§ 1601-1667f](#)

[The Fair Credit Billing Act, 15 U.S.C. §§ 1666-1666j](#)

[The Equal Credit Opportunity Act, 15 USC §§ 1691-1691f](#)

[The Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x](#)

[The Credit Repair Organizations Act, 15 U.S.C. § 1679 – 1679j](#)

[The Fair Debt Collection Practices Act, 15 U.S.C. § 1692-1692p](#)

[The Military Lending Act, 10 U.S.C. § 987\(b\) & 32 C.F.R. §232.4\(b\)](#)

Case Examples

- United States vs. Mortgage Investors Corporation
[Complaint](#)
[Order](#)
- FTC v. Ashworth College
[Complaint](#)
[Order](#)

Legislative Updates for Servicemembers

In an effort to enhance the Department of Justice’s ability to protect servicemembers, the Initiative submitted to Congress a legislative packet of amendments to three existing federal laws, the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), the Servicemembers Civil Relief Act (“SCRA”), and the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (“UOCAVA”). The Department’s Civil Rights Division protects a servicemember’s civilian employment rights by enforcing USERRA, financial security by enforcing the SCRA, and voting rights by enforcing UOCAVA. The proposed amendments require parties seeking default judgments against servicemembers to first check Department of Defense records to determine duty status, making it more difficult for unscrupulous creditors to take advantage of servicemembers on active duty. The amendments also increase penalties that employers, as well as lending and rental businesses, will face for violating laws designed to protect servicemembers. The legislative proposals expand the number and types of cases the United States can bring in defense of servicemembers attempting to return to their civilian employment upon completion of their military service, and the available remedies for violations of the voting rights of servicemembers and their families while they are overseas. And the proposed amendments seek to protect military families by affording dependent family members the same state residency rights as the servicemember, as well as requiring states to recognize a servicemember spouse’s professional licensures from other states. These important changes will not only enhance the Department’s ability to bring enforcement actions, but also enable these men and women to assert their rights on their own.

[Servicemembers Legislative Package Statement](#)

[Servicemembers Legislative Package](#)

Other Resources

Federal Partners

- [Consumer Financial Protection Bureau Servicemembers](#) - Information for servicemembers on unfair, deceptive, and/or abusive financial practices
- [Department of Labor-Veteran's Employment and Training Service](#) - USERRA fact sheet
- [Securities and Exchange Commission](#) - Information for servicemembers on investing wisely and avoiding fraud
- [Federal Trade Commission](#) - Resources to help servicemembers defend against fraud and manage their money

U.S. Department of Defense

- [Employer Support of the Guard and Reserve \(ESGR\)](#) - USERRA information and assistance
- [Federal Voting Assistance Program](#) - Voting assistance for servicemembers, their families, and overseas citizens
- [National Resource Directory](#) - Connecting wounded warriors, servicemembers, veterans, their families, and caregivers with those who support them
- [U.S. Armed Forces Legal Assistance](#) (SCRA) - Locate the closest military legal assistance office

U.S. Department of Justice

- [Protecting the Rights of Servicemembers](#)
This brochure provides a brief explanation of the civil rights of servicemembers, as well as information about how to learn more or to file a complaint if you believe your rights have been violated.

A Guide to Disability Rights Laws

- www.ada.gov/cguide.htm (html) - A general guide to disability rights laws
- www.ada.gov/cguide.pdf (pdf) - A general guide to disability rights law (alternative format)
- www.ada.gov/cguide_spanish.htm (Spanish) - A general guide to disability rights laws

ADA Regulations and Technical Assistance Materials

- www.ada.gov/servicemembers_adainfo.html
A guide for returning servicemembers with Disabilities

Additional Legal Resources

- http://www.americanbar.org/groups/legal_assistance_military_personnel.html
Information on legal assistance for military members
- <https://www.lsc.gov/what-legal-aid/find-legal-aid> - Find general legal aid organizations near you
- https://www.americanbar.org/groups/legal_services/flh-home.html - Legal resources by state
- <https://www.americanbar.org/directories/bar-associations.html> - State and local bar associations