



## **LAW REVIEW<sup>1</sup> 26028**

### **June 2026-PRIORITY LAW REVIEW**

#### **Government Accountability Office Reports on the Effectiveness of DOL-VETS in Enforcing USERRA.**

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#### **1.4—USERRA enforcement.**

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<sup>1</sup> We invite the reader's attention to [www.roa.org/lawcenter](http://www.roa.org/lawcenter). You will find more than 2,300 "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 Spouses' Protection Act (USFSPA), the title 38 chapters that provide for veterans' benefits administered by the Department of Veterans Affairs (VA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. Sam is the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

<sup>2</sup> BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. I have dealt with USERRA and the Veterans' Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 44 years. 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 proposed VRRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. §§ 4301-35). 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 (DOD) 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), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. As of 5/1/2026, I have come out of retirement and have affiliated with Maher Legal Services in an "of counsel" role. You can reach me by e-mail at [samuel@maherlegalservices.com](mailto:samuel@maherlegalservices.com) or by telephone at (708) 468-8155.

<sup>3</sup> BA Texas Christian University (Political Science), MS American Military University (Strategic Intelligence). Served a total of twenty-nine years in the United States Army and Army Reserve, primarily in the Judge Advocate General's Corps as a Paralegal and Command Paralegal and culminated his service as Senior Enlisted Advisor to the Assistant Secretary of Defense for Manpower and Reserve Affairs.



On June 16, 2026, the Government Accountability Office (GAO) released a report on the effectiveness of a Department of Labor program designed to assist Reserve Component Service members access their rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). As background, on 1/2/2025, President Joe Biden signed into law the Senator Elizabeth Dole 21<sup>st</sup> Century Veterans Healthcare and Benefits Improvement Act (Dole Act). In addition to improving the Department of Veterans Affairs (VA) and optimizing veterans' benefits, especially in the areas of home caregiving and veteran homelessness,<sup>4</sup> the Dole Act modernizes and improves the USERRA, 30 years after that law was signed on 10/13/1994.<sup>5</sup> Law Review 25006 (February 2025), by Colonel George C. Aucoin, USMC (Ret.), explained in detail the important improvements that the Dole Act made to USERRA.

In addition to making improvements to the text of USERRA, the Dole Act also directed the Government Accountability Office (GAO)<sup>6</sup> to study the effectiveness of the Veterans' Employment and Training Service of the United States Department of Labor (DOL-VETS) in enforcing USERRA against employers, including the Federal Government (Executive

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<sup>4</sup> See Law Review 24058 (December 2024). That article is by Bradley Hennings and Robert Chisholm of the Rhode Island law firm Chisholm Chisholm & Kirkpatrick (CC&K), the nation's largest law firm devoted exclusively to assisting veterans in obtaining their earned veteran benefits.

<sup>5</sup> See Law Review 24047 (October 2024).

<sup>6</sup> GAO is an investigative agency in the Legislative Branch of the Federal Government. On its website, GAO describes itself as follows: "GAO provides Congress, the heads of executive agencies, and the public with timely, fact-based, non-partisan information that can be used to improve government and save taxpayers billions of dollars. GAO provides Congress, the heads of executive agencies, and the public with timely, fact-based, non-partisan information that can be used to improve government and save taxpayers billions of dollars. Our work is done at the request of congressional committees or subcommittees or is statutorily required by public laws or committee reports, per our Congressional Protocols."

<https://www.gao.gov/about/what-gao-does/>.

Branch), the States, the territories (Guam, Puerto Rico, etc.) , the local governments, and private employers, regardless of size.<sup>7</sup>

GAO has completed the required study and has filed its report with the Senate Committee on Veterans Affairs and the House Committee on Veterans Affairs. The GAO report is available for free on the GAO website. We placed a link to the GAO report at the end of this article.

The GAO report (GAO-26-108197) examined how the Department of Labor's Veterans' Employment and Training Service (VETS) investigates USERRA complaints, reviewing the 5,433 complaints VETS closed between FY 2021 and FY 2025. The report found that annual complaint volume rose steadily—from 861 in FY 2021 to 1,380 in FY 2025—even as median investigation times grew roughly 23 percent (from 40 to 49 days) and investigative staffing fell about 20 percent over FY 2025 alone (from 145 to 111). Most complaints resulted in no relief for the service member: only 23 percent were resolved in the member's favor, while 34 percent were closed for administrative reasons and 30 percent were closed as not substantiated, prompting GAO's two recommendations that VETS streamline its pre-filing educational resources and assess investigator training needs.

Notably, the distribution of complaints by employer type is strikingly disproportionate to the makeup of the American workforce. Private-sector employers accounted for about half of all complaints, while state and local government employers and federal employers each generated

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<sup>7</sup> Unlike other federal statutes that regulate the relationships between employers and employees, the federal reemployment statute has never had a threshold based on the size of the enterprise or the number of employees. You only need one employee to be an employer subject to the reemployment statute. See *Cole v. Swint*, 961 F.2d 58, 60 (5<sup>th</sup> Cir. 1992).



roughly one-fifth (about 20 percent). Yet public-sector jobs make up a far smaller share of total U.S. employment: as of May 2026, federal employment (including the Postal Service) was about 2.7 million of roughly 159 million nonfarm jobs—under 2 percent—while all state and local government jobs together (about 20.7 million) represented roughly 13 percent. Federal and state/local employers thus generate USERRA complaints at a rate far out of proportion to their share of the workforce—federal employers especially, producing about one-fifth of all complaints while employing under 2 percent of American workers. This over-representation likely reflects, at least in part, the concentration of Reserve and Guard members in public-sector occupations such as law enforcement, corrections, and firefighting, which the report identifies as the most common fields among complainants. This also indicates a tremendous need for more USERRA education within the federal and state workforce—and an evaporation of the myth that government employers are somehow better at USERRA enforcement than the private sector.

The GAO report includes the following paragraph:

Service members have access to multiple resources to help them decide whether to file a [USERRA] complaint. VETS’s website includes information and tools to help service members assess their eligibility under USERRA. These resources include a “Know Your Rights” webpage and a link to VETS’s elaws (Employment Laws Assistance for Workers and Small Business) Advisor tool designed to help employees learn about their rights and responsibilities.



For members of the Reserve Component and legal professionals working USERRA, there is another powerful tool available. The GAO report did not mention the Law Review Library established and maintained by ROA, formerly known as the Reserve Officers Association. We have more than 2,000 “Law Review” articles available on our website, [www.roa.org/lawcenter](http://www.roa.org/lawcenter). These articles are available for free to everyone, not just ROA members. More than 1,300 of the articles are about USERRA. We also have articles about other federal and state laws that are frequently confused with USERRA. This includes the federal Veterans Preference Act (VPA), which mandates hiring and retention preference for certain veterans in federal Executive Branch civilian employment, and the veterans preference laws of the 50 states, which mandate preference for certain veterans in state and local government employment.

This article’s primary author, Sam Wright, also co-authored the original USERRA statute. He includes his ROA email address, [SWright@roa.org](mailto:SWright@roa.org) into each article and every week, he receives several emails asking questions about USERRA and other military-relevant laws. He responds to those emails **at no charge to those who inquire**. The great majority of those who send emails are not ROA members, although they are certainly eligible. We always ask them to join, but do not make ROA membership a condition precedent to my assisting them.

It should also be noted that frequently a service member’s rights under USERRA overlap with rights under other federal and state laws and legal principles like the obligations of contracts, but DOL-VETS and the Department of Justice (DOJ) can only consider and act upon your USERRA rights. In some cases, you are much better off with an



experienced and well-informed private attorney who can consider and act upon all relevant laws and principles, not just USERRA.

**Q: Where can I find a lawyer or law firm that fully understands laws like the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniform Code of Military Justice (UCMJ), and other laws that are especially pertinent to those who serve our country in uniform?**

**A:** As of 5/1/2026, Sam has come out of retirement and joined Maher Legal Services in an “of counsel” role. This firm has a great team, headed by attorneys John Maher and Kevin Mikolashek, both of whom have served as Army judge advocates for many years. These attorneys and this firm have a great record, and he is proud to join their team.

Here is a link to the Maher Legal Services website:

<https://www.lawyersdefendingwarriors.com/about>.

**Join the Organization That Fights for You.**

This article is one of more than 2,000 "Law Review" articles available at <https://roa.org>- a free legal resource that the Reserve Organization of America (ROA) has built and maintained since 1997, adding new articles every month.

ROA is the only national military organization dedicated exclusively to America's reserve components — all eight of them. From the 6,179 members of the Coast Guard Reserve to the 329,705 soldiers of the



Army National Guard, ROA exists to serve the nearly 773,000 men and women who answer the call while maintaining civilian lives. No other organization does what we do for the people we serve.

Our roots run deep. On October 2, 1922, veterans of the Great War gathered at Washington's historic Willard Hotel — at the invitation of General of the Armies John J. Pershing — to build something lasting. One of the junior officers in that room was Captain Harry S. Truman, who, as President, signed ROA's congressional charter in 1950. That charter gives us a clear mission: advocate for policies that ensure adequate national security. For more than a century, we've made the case that America's Reserve Components and National Guard are among the most cost-effective pillars of our national defense.

Beyond this library of legal resources, ROA files amicus curiae ("friend of the court") briefs in the Supreme Court and federal courts, and actively educates service members, military spouses, attorneys, employers, legislators, and others about the legal rights of those who serve — and how to enforce them. We provide this information to all service members, regardless of membership. But it's ROA members — through their dues and contributions — who make it possible.

### **Your membership makes the mission possible.**

If you are currently serving, or have ever served, in any of America's eight uniformed services, you are eligible to join ROA — and membership starts at just \$20 for a full year, or \$450 for life. Officers and enlisted personnel alike qualify, whether your service was in the Active Component, the National Guard, or the Reserve. ROA has also



recently expanded eligibility to include ancestors and lineal descendants of past or present service members, so families can stand with those who serve. Join online at <https://members.roa.org/join/person/mbrtype.html?action=join> or call 800-809-9448.

If you are not eligible for membership but believe in this mission, your financial contribution directly funds this resource and the advocacy work that protects those who serve. Donations may be mailed to:

Reserve Organization of America  
1 Constitution Ave. NE  
Washington, DC 20002

Here is a link to the recent GAO report on the effectiveness of DOL-VETS:

<https://www.gao.gov/assets/gao-26-108197.pdf>.

It should be noted that the GAO report on USERRA cases investigated and addressed by DOL-VETS is by no means a complete accounting of all USERRA cases filed in federal and state courts and in the United States Merit Systems Protection Board (MSPB). A person who believes that his or her USERRA rights have been violated is permitted to retain private counsel and to sue the employer in the appropriate federal or state court or in the MSPB (for USERRA claims against Federal executive agencies).<sup>8</sup> The number of USERRA complaints addressed by private

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<sup>8</sup> See 38 U.S.C. § 4323(b) and 38 U.S.C. § 4324(b)(1).



attorneys each year is probably substantially greater than the number addressed by DOL-VETS.