

## **LAW REVIEW<sup>1</sup> 26040**

**August 2026**

### **Congress Amended the SCRA To Provide Occupational License Portability for Military Spouses, and this Time it Includes Lawyers. By Captain Samuel F. Wright, JAGC, USN (Ret.)<sup>2</sup>**

#### **1.1.3.9—USERRA and military family members.**

#### **4.11—Occupational license portability for service members and their spouses.**

---

<sup>1</sup> I invite the reader's attention to [Law Center | ROA](#). 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. I am 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.

***Portee v. Morath*, 2023 U.S. Dist. LEXIS 125796 (W.D. Texas July 21, 2023).**

**Q: I am a lawyer and a military spouse.<sup>3</sup> When doing an Internet search, I found some of your “Law Review” articles about the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), and other laws that are especially pertinent to military personnel, their spouses, and their families. I hope that you can help me to understand my rights, as a military spouse, under these laws.**

**Five years ago, in 2021, I graduated law school in the District of Columbia (DC) and took and passed the DC bar exam. I have been licensed to practice law in DC continuously since 11/1/2021. I am in good standing with the DC bar. I am an associate (salaried attorney) with a major national law firm, at its DC office.**

**Three years ago, in August 2023, I married the love of my life. Let us call her Josephine Smith. She is a Major (O-4) in the Regular Army. She graduated from the United States Military Academy at West Point, New York, and she was commissioned a Second Lieutenant in May 2015. She has been on active duty continuously for 11 years, not counting the four years at West Point. She expects to remain on active duty for at least another nine years to qualify for the 20-year Active Component retirement.**

**Josephine is currently serving at Fort Belvoir in Fairfax County, Virginia. We share an apartment in Arlington, Virginia. On a daily**

---

<sup>3</sup> The factual set-up for this article is hypothetical but realistic.

basis, she commutes to her Army assignment at Fort Belvoir and I commute to the law firm office in DC. Early next year, Josephine expects to be transferred to Fort Hood in central Texas.

I love my law firm job, and I especially love the salary, which is well into six figures. And I am more than halfway to the point where I will be considered for promotion to partner in the firm. I hate to give up this job, but I cannot abide the thought of being separated from my wife. We really want to start a family, and that probably won't be possible if I am in DC and she is in Texas.

The major national law firm that employs me has an office in Houston and another in Dallas. Do I have the right, under USERRA, to insist that the firm transfer me to the Houston office or the Dallas office so that I can remain employed by the firm and be close enough to my wife's assignment that we can at least be together on weekends?

**A: Unfortunately, the answer is no.**

It has been held, based on the express and unambiguous language of USERRA, that this federal law does not require civilian employers to make accommodations for the spouses of service members, nor does it give the right to reemployment to a military spouse (not himself or herself on active duty) who leaves a civilian job to accompany the service member spouse to another State when the service member spouse is transferred by the military.<sup>4</sup>

---

<sup>4</sup> See *Norris v. Glassdoor, Inc.*, 2018 U.S. Dist. LEXIS 117043 (S.D. Ohio July 13, 2018). See generally *Singletary v. United Parcel Service*, 828 F.3d 342 (5<sup>th</sup> Cir. 2016); *Lourens v. Merit Systems Protection Board*, 193 F.3d 1369 (Fed. Cir. 1999); Law Review 22029 (May 2022); Law Review 18088 (September 2018); and Law Review 18086 (September 2018).

Under USERRA, an employee who leaves a civilian job (federal, state, local, or private sector) to perform “service in the uniformed services” and who meets the five USERRA conditions for reemployment<sup>5</sup> is entitled to prompt reinstatement into the position of employment that he or she would have attained if he or she had remained continuously employed and is entitled to seniority and pension credit in the civilian job as if he or she had remained continuously employed.<sup>6</sup> USERRA defines the term “service in the uniformed services” as follows:

The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, State active duty for a period of 14 days or more, State active duty in response to a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), State active duty in response to a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5170), a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief

---

<sup>5</sup> See Law Review 24047 (October 2024) for a detailed discussion of the five USERRA conditions.

<sup>6</sup> 38 U.S.C. §§ 4316(a), 4318.

and Assistance Act, a period for which a person is absent from a position of employment due to an appointment into service in the Federal Emergency Management Agency as intermittent personnel under section 306(b)(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5149(b)(1)), and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.<sup>7</sup>

Leaving your job at the law firm in DC to accompany your wife to her new duty station in Texas does not amount to “service in the uniformed services” as defined by USERRA. Neither USERRA nor any other federal law requires the law firm that employs you to give you a position in one of the firm’s Texas offices.

In this article, like most of our Law Review articles, I am discussing **what the law is, not what I want it to be**. As I explained in Law Review 23047 (August 2023), the Veterans’ Employment and Training Service of the United States Department of Labor (DOL-VETS) proposed that Congress amend USERRA to protect the civilian jobs of the spouses of service members, and I support that proposal. Thus far, there has been no tangible progress on getting such legislation enacted.

**Q: It appears that the firm is not willing to find a position for me in one of its Texas offices and that the firm has no legal obligation to do that. I have firmly decided to move to Texas with my wife when she is transferred to Fort Hood next year, even though that means that I will forfeit the law firm job that I love.**

---

<sup>7</sup> 38 U.S.C. § 4303(13).

**When I move to Texas with my wife next year, I want to continue my legal career by joining a new law firm in central Texas or maybe by hanging out a shingle and practicing law as a solo practitioner. The problem is that I am not licensed to practice law in Texas. I am only licensed to practice law in the District of Columbia.**

**Will I be able to practice law in Texas without going through a lengthy process, including signing up for the Texas bar exam, studying for it, passing it, and waiting for the bar exams to be graded?**

**A: Good news.** Congress has enacted a new provision in the Servicemembers Civil Relief Act (SCRA) to address situations like your situation. Congress enacted this provision in 2023 and amended it in 2024. As amended, the provision reads as follows:

**(a)In general**

If a servicemember or the spouse of a servicemember has a covered license and relocates residence because such servicemember receives military orders for military service in a State other than the State of the licensing authority that issued the covered license, such covered license shall be considered valid for the scope of practice in the State of the new residence if such servicemember or spouse submits to the licensing authority of such State an application described in subsection (c).

**(b)Temporary licenses**

If a licensing authority is required to consider a covered license valid under subsection (a) but cannot carry out such requirement during the 30 days after receiving an application described in

subsection (c), the licensing authority may issue to the applicant a temporary license that confers the same rights, privileges, and responsibilities as a permanent license.

**(c)Application**

An application described in this subsection includes the following:

**(1)**

Proof of military orders described in subsection (a).

**(2)**

If the applicant is the spouse of a servicemember, a copy of the marriage certificate.

**(3)**

A notarized affidavit affirming, under the penalty of law, that—

**(A)**

the applicant is the person described and identified in the application;

**(B)**

all statements made in the application are true and correct and complete;

**(C)**

The applicant has read and understands the requirements to receive a license and the scope of practice, of the State of the licensing authority;

**(D)**

the applicant certifies that the applicant meets and shall comply with requirements described in subparagraph (C); and

**(E)**

the applicant is in good standing in all States in which the applicant holds or has held a license.

**(d)Background checks**

A licensing authority that receives an application described in subsection (b) may conduct a background check of the applicant before carrying out subsection (a) or (b).

**(e) Interstate compacts**

If a servicemember or spouse of a servicemember has a covered license to operate in multiple States pursuant to an interstate compact described in section 1784 of title 10—

**(1)**

The servicemember or spouse of a servicemember shall be subject to the requirements of such compact or the applicable provisions of law of the applicable State; and

**(2)**

this section shall not apply to such servicemember or spouse of a servicemember.

**(f) Definitions**

In this section:

**(1)** The term “covered license” means a professional license that, with respect to a scope of practice—

**(A)**

is in good standing with the licensing authority that issued such license;

**(B)**

has not been revoked or had discipline imposed by any State;

**(C)**

does not have an investigation relating to unprofessional conduct pending in any State relating to it; and

**(D)**

has not been voluntarily surrendered while under investigation for unprofessional conduct in any State.

**(2)**

The term “license” means any license, certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in, or represent himself or herself to be a member of, a particular profession.

**(3)**

The term “licensing authority” means any State board, commission, department, or agency that—

**(A)**

is established in the State for the primary purpose of regulating the entry of persons into or the conduct of persons within, a particular profession; and

**(B)**

is authorized to issue licenses.

**(4)**

The term “military orders” has the meaning given such term in section 3955 of this title.

**(5)**

The term “scope of practice” means the defined parameters of various duties or services that may be provided by an individual under a license.<sup>8</sup>

On 8/25/2025, the Texas Supreme Court approved amendments to Rule 23 of the “Rules Governing Admission to the State Bar of Texas.” The purpose and effect of these amendments is to bring Texas into compliance with section 4025a of title 50 of the United States Code.

---

<sup>8</sup> 50 U.S.C. § 4025a.

I am pleased that the Texas Supreme Court has taken this action, but strictly speaking, this action was unnecessary. The State of Texas and its agencies, including the Texas Supreme Court and the State Bar of Texas, are required to comply with federal law even if the federal law conflicts with State law. The United States Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.<sup>9</sup>

More than two centuries ago, the Supreme Court, in one of its seminal cases, held that the Supremacy Clause means what it says and that a federal statute trumps a conflicting State statute or even a State constitution.<sup>10</sup>

### **Why section 4025a is necessary:**

The National Healthy Marriage Resource Center of Brigham Young University has written:

Why is it important to understand the challenges to a healthy marriage that people in the military face? Some compelling reasons come readily to mind. First of all, married military personnel represent a sizable population, and that, in itself, merits

---

<sup>9</sup> United States Constitution, Article VI, Clause 2. This provision is called the “Supremacy Clause.” Yes, it is capitalized just that way, in the style of the late 18<sup>th</sup> Century.

<sup>10</sup> See *Gibbons v. Odgen*, 22 U.S. 1 (1824).

attention. Nearly one-half of the nation's military personnel are married, amounting to almost 700,000 individuals. Moreover, these individuals will experience unique challenges to their marriages, such as deployment and combat stress. Perhaps as a result of some of these unique challenges, servicemen and women appear to have one of the highest divorce rates of any group in the nation. Also, when war or conflict strikes the nation, military spouses feel the effects. Many men and women join the military in order to serve their country and its ideals. If military personnel are struggling in their marriages, this situation can impact the ability of the military to perform its duties. But perhaps the most compelling reason simply may be that a healthy marriage contributes to a higher quality of life for an important group in society that serves the public interest, clearly a vital social goal.<sup>11</sup>

That same Brigham Young University resource center has also written: “The [military] spouse has to adjust his or her employment to the military spouse’s work. If he or she has a career, it is frequently interrupted by relocation.”<sup>12</sup>

In Law Review 23019, First Lieutenant (now Captain) Tara Buckles wrote:

Military spouses face many hurdles when their service member receives [transfer] orders, including finding a new place to live, a new job, and settling in an entirely new environment. Spouses

---

<sup>11</sup> See [https://www.healthymarriageinfo.org/wp-content/uploads/2017/12/review\\_mmilitarylife.pdf](https://www.healthymarriageinfo.org/wp-content/uploads/2017/12/review_mmilitarylife.pdf).

<sup>12</sup> Id.

who work in fields that require professional or occupational licensure in order to work often face even more difficult paths to transition. Obtaining a new professional license is often expensive, time-consuming, and results in a hit to the overall family income while the spouse waits for the license to work.

This new law [the SCRA amendment] provides much-needed relief to these military families by providing license portability in all fields, except for the practice of law. This license portability applies not only to a military spouse, but to the service member as well.<sup>13</sup>

As enacted in 2023, this new SCRA provision applied to all occupational licenses **except law licenses**. As amended in 2024, section 4025a of title 50 of the United States Code applies to all occupational licenses, **including law licenses**.

**Q: How does one go about enforcing the provisions of section 4025a?**

**A:** I invite your attention to a case in the United States District Court for the Western District of Texas wherein section 4025a was judicially enforced against the State of Texas.<sup>14</sup> The plaintiff in that case was Hannah Magee Portee, the wife of an active-duty Air Force Captain. Ms. Portee, a licensed school counselor in Ohio, moved to Del Rio, Texas when her husband was transferred by the Air Force to Laughlin Air Force Base. Mike Morath (the Texas Commissioner of Education) and his staff told her that she could not be hired as a school counselor without first obtaining a Texas license. When she pointed to the newly

---

<sup>13</sup> Law Review 23019 (April 2023).

<sup>14</sup> *Portee v. Morath*, 2023 U.S. Dist. LEXIS 125796 (W.D. Texas July 21, 2023).

enacted section 4025a, the staff told her: “that does not apply to Texas.”

Ms. Portee retained attorney Brandon J. Grable of Grable Grimshaw PLLC in San Antonio and sued Morath (in his official capacity) in the United States District Court for the Western District of Texas. Ms. Portee and her attorney prevailed, obtaining declaratory and injunctive relief, back pay, court costs, and attorney fees. The State of Texas did not appeal to the United States Court of Appeals for the 5th Circuit. Bravo Zulu to Mr. Grable for successfully enforcing section 4025a, which at the time was brand new.

### **Bravo Zulu to the Military Spouse JD Network:**

Bravo Zulu to the Military Spouse JD Network (MSJDN), an organization of military spouses who have earned law degrees. On its website, that organization states:

Since 2011, MSJDN has led the national movement to remove licensing barriers for military spouse attorneys. What began as a state-by-state campaign, starting with Idaho, the first state to approve a military spouse licensing accommodation, has become one of the most successful professional mobility initiatives in the licensing arena, culminating in the enactment of federal law requiring licensing recognition.<sup>15</sup>

---

<sup>15</sup> <https://msjdn.org/rule-change/>.

The Military Spouse JD Network has now fully accomplished the original purpose for which the organization was established. I hope that the organization will not declare victory and fold up its tents. There are many other ways in which federal and State laws need to be improved as far as those laws apply to spouses of Active Component and Reserve Component spouses and families. I have communicated with the leaders of this fine organization to inform them about the Law Review Library and the Service Members Law Center of the Reserve Organization of America (ROA). I hope that we can work together on all the other military spouse issues that need to be addressed.

**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, I have come out of retirement and have 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 I am 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 [Law Center | ROA](#) — 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 [Reserve Organization of America - ROA](#) 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