

HOUSE BILL REPORT

HB 2171

As Reported by House Committee On:
Judiciary

Appropriations Subcommittee on General Government & Information Technology

Title: An act relating to strengthening economic protections for veterans and military personnel.

Brief Description: Strengthening economic protections for veterans and military personnel.

Sponsors: Representatives Orwall, Johnson, Tarleton, Ross, Nealey, Hayes, Sullivan, Farrell, Kirby, Hansen, Chandler, Green, Shea, Moscoso, Parker, Smith, Magendanz, Klippert, Rodne, Pollet, Seaquist, Appleton, Carlyle, Stanford, Buys, Morrell, Goodman, Liias, Haigh, Short, Fagan, Bergquist, Fey, Riccelli and Ryu; by request of Governor Inslee and Attorney General.

Brief History:

Committee Activity:

Judiciary: 1/14/14, 1/21/14 [DPS];

Appropriations Subcommittee on General Government & Information Technology:
2/6/14 [DPS(JUDI)].

Brief Summary of Substitute Bill

- Amends the Washington Service Members' Civil Relief Act (WSCRA) to authorize a private right of action, or an action by the Washington Attorney General, to enforce the provisions of the WSCRA.
- Provides that the federal Servicemembers Civil Relief Act applies in proper cases in Washington courts, and a violation of the federal act is a violation of the WSCRA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts, Shea and Walkinshaw.

Staff: Edie Adams (786-7180).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Washington Service Members' Civil Relief Act (WSCRA) was enacted in 2005. The WSCRA contains certain rights for service members and their dependents whose financial and legal obligations may be impacted by active military duty. The main provisions of the WSCRA provide rights to a service member and dependents with respect to default judgments and stays in civil proceedings. The WSCRA also contains provisions restricting contract fines and penalties, restructuring interest rates on certain business loans, and tolling statutes of limitations during military service periods.

The WSCRA applies to Washington residents who are members of the National Guard or a military reserve component and who are under a call to active service for a period of more than 30 days. The WSCRA also applies to certain dependents of covered service members.

The WSCRA was modeled on the portions of the federal Servicemembers Civil Relief Act (SCRA) relating to default judgments and stays of civil proceedings. The SCRA contains a number of other rights for service members, including reducing interest rate obligations on pre-service loans to 6 percent, and protecting service members from evictions and property foreclosures, cancellation of life insurance, and losing certain rights to public land.

Congress amended the SCRA in the Veterans' Benefits Act of 2010 (VBA) to include an enforcement mechanism through either a private right of action or an action by the United States Attorney General. Under the VBA amendments, a person covered by the SCRA may bring a private civil action for a violation of the SCRA, and remedies may include equitable or declaratory relief, damages, and costs and reasonable attorneys' fees. In addition, the United States Attorney General is authorized to bring an action to enforce the SCRA against a person who engages in a pattern or practice of violating the SCRA or engages in a violation that raises an issue of significant public importance. Remedies may include equitable or declaratory relief, damages, and civil penalties of up to \$55,000 for a first violation and up to \$110,000 for subsequent violations.

Summary of Substitute Bill:

The WSCRA is amended to provide that the federal SCRA applies in proper cases in all Washington courts, and a violation of the SCRA is a violation of the WSCRA.

A service member or dependent may bring a civil action for a violation of the WSCRA to obtain equitable or declaratory relief, monetary damages, and other appropriate relief. In addition, the court may award the costs of the action and reasonable attorneys' fees to a service member or dependent who prevails in the action.

The Washington Attorney General may bring a civil action to enforce the WSCRA against a person that engages in a pattern or practice of violations or engages in a violation that raises an issue of significant public purpose. The court may grant equitable or declaratory relief, monetary damages, and other appropriate relief. In addition, the court may assess a civil penalty of up to \$55,000 for a first violation, and up to \$110,000 for subsequent violations.

The Washington Attorney General is authorized to issue civil investigative demands, prior to commencing a civil action, for the discovery of material information relevant to an investigation of a violation of the WSCRA. Standards are provided for the required contents of a demand; how the demand must be served; the process for production of documents and information; the confidentiality of disclosed documents or information; and court action for contesting, modifying, or enforcing a demand.

A reference to the federal Soldiers' and Sailors' Civil Relief Act of 1940 in state law regarding employment and reemployment rights of persons serving in the uniformed services is revised to instead reference the federal Uniformed Services Employment and Reemployment Rights Act (USERRA). The USERRA is declared to apply in proper cases in all Washington courts.

Substitute Bill Compared to Original Bill:

The original bill did not include authorization for the Washington Attorney General to issue civil investigative demands for the discovery of material information relevant to an investigation of a WSCRA violation.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This legislation strengthens protections for our service members. Service members make incredible sacrifices for our country, and they deserve protection from the impacts that military service has on their obligations. Washington originally adopted the WSCRA to mirror the federal SCRA. Congress amended the federal SCRA in 2010 to clarify a private right of action for enforcement and to grant the United States Attorney General enforcement authority. This legislation makes our state law consistent with the federal SCRA.

This bill is a key part of providing help to our service members in navigating the interface between civilian and military life. Every time we have a major deployment we see cases where service members' rights are not being protected. This creates personal anxiety and stress for service members, taking their focus away from their military duties and making it harder for them to do their jobs. This bill will help us resolve those cases to make sure the men and women who wear uniforms for our country receive the protections to which they are entitled.

(Opposed) None.

Persons Testifying: Representative Orwall, prime sponsor; Bob Ferguson and Travis Alley, Office of the Attorney General; Ted Sturdevant, Office of the Governor; Bret Daugherty, United States Military Department; Jim Sims, Veterans Legislative Coalition; and Robert Rudolph, Veteran and Military Families for Progress.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hudgins, Chair; Parker, Ranking Minority Member; Buys, Christian, Dunshee, S. Hunt, Jinkins, Springer and Taylor.

Staff: Charlie Gavigan (786-7340).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Information Technology Compared to Recommendation of Committee On Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Federal law protects military personnel under federal duty, while state law protects those active under state duty. This bill extends federal protections to state duty by adding to state law a private cause of action and allowing the state Attorney General to protect state personnel when necessary. The fiscal impact is a new workload at the Attorney General's Office. The fiscal note does not include potential receipt of civil penalties. Extending protections available to those on federal duty to those on state duty through this bill is beneficial to those state personnel, especially in the areas of family and civil law. This includes protections related to rental agreements, civil judicial proceedings, installment contacts, evictions, automobile leases, and tax payments.

(Opposed) None.

Persons Testifying: Travis Alley, Washington State Office of the Attorney General; and Mike Davis.

Persons Signed In To Testify But Not Testifying: None.