



**Region Legal Service Office, Mid Atlantic  
Legal Assistance Department, Bldg. A-50**

# Mobilization Legal Brief



**MAKING A DIFFERENCE - ONE SAILOR AT A TIME**



# What is Legal Assistance?

A "JAG" (Judge Advocate General Corps) attorney can help you with:

**Powers of Attorney**  
**Wills/Estate Planning**  
**Family Law**  
**Landlord/Tenant**  
**Consumer Protection**  
**Military**  
**Rights/Benefits**

**Taxes**  
**SCRA**



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# Who is eligible for Legal Assistance?

- Active Duty and their Dependents.
- Reservists if mobilized for 30+ days
  - Post-Mob = eligible for a time period equal to twice the amount of time mobilized for deployment related issues.
- Retirees and their Dependents.

## Why does a JAG help?

Pre-mob: ensure deployment readiness.

De-mob: address any legal issues that arose during deployment.

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# How does a JAG help?

- A licensed attorney will meet with you, discuss your problem and determine how to proceed:
  - Review Documents
  - Draft Documents
  - Research legal rules
  - Send Letters / Make Phone Calls / Speak with opposing party.
  - Answer Questions
  - Advise how to Proceed.

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# The Fine Print: **What are the limitations?**

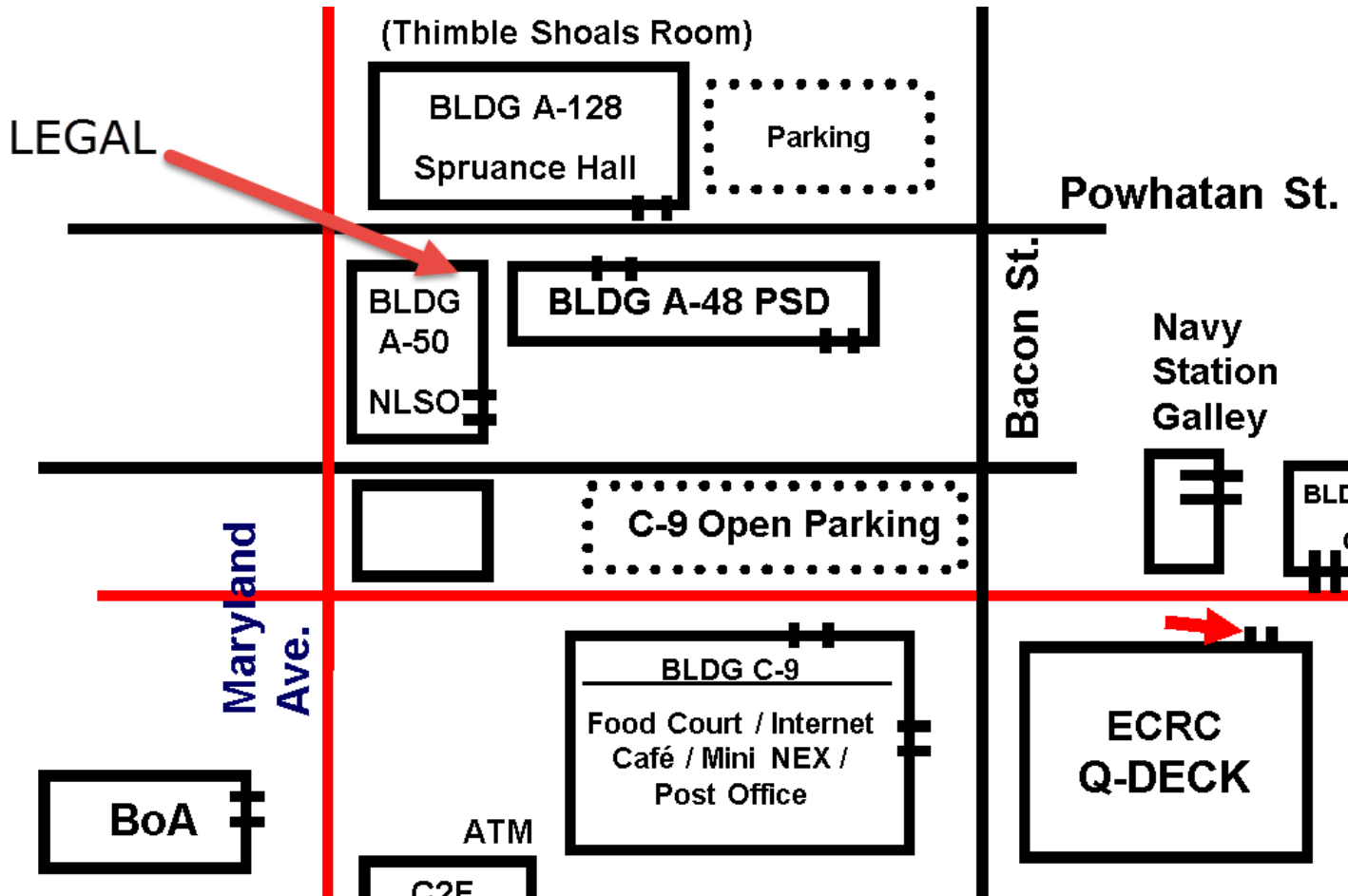
- NO Civilian Court Representation
- NO Conflicts of Interest
- May need to refer to other providers (DFAS, Tricare, PSD)
  - Refer to Defense Counsel JAGs if it is a grievance against military or chain of command.
- NO Business Advice



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# Where is the Norfolk Legal Office?



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# Estate Planning / Who needs a will?

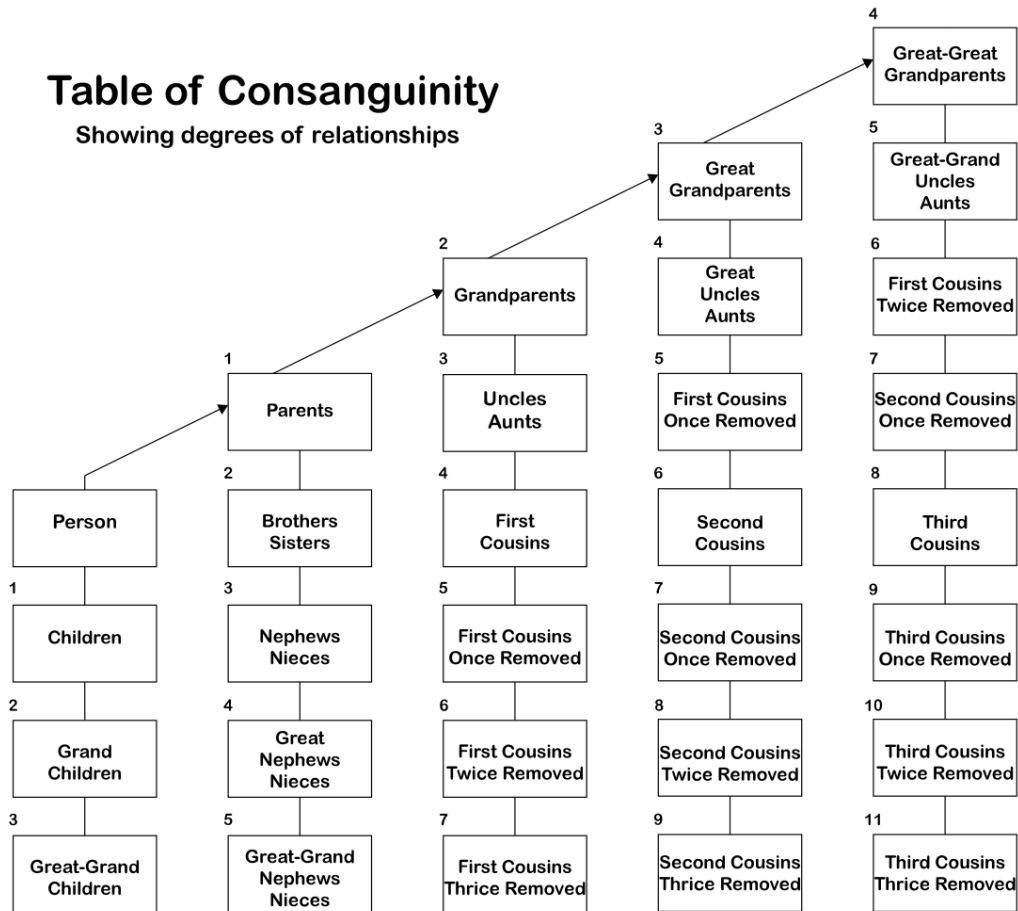
- **Intestacy Laws**, if you pass away without a will, your estate goes to your closest living family members (not directly to the state).
- **WILL**, allows you to specify who gets your property when you pass away. It is not mandatory, even in the military.
  - If you have children, you can name the person to raise them (guardian) and manage their money (trustee) after your death.
  - Choose who is responsible for carrying out your wishes (executor).
  - Can provide your funeral desires / peace of mind to your family.
- **Need a new Will?**
  - Wills don't expire, but you need to have the original.
  - Different beneficiaries? (due to death, divorce, birth or marriage).
  - If you have additional property (typically not).
  - If you have moved (typically not).



# Consanguinity

## Table of Consanguinity

Showing degrees of relationships



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# Other Estate Documents

These are also discussed during a WILL appointment:

- **SGLI**            400K of life insurance
- **DD93**            100K Death Gratuity benefit
  - Beneficiaries of each are listed on your 'pg. 2.'
  - These go to whoever is listed on the form!
  - JAGs can rewrite the forms for PSD to put this money in trust for children.

If you become incapacitated:

- **SPRINGING DURABLE FINANCIAL POWER OF ATTORNEY**
  - Names an agent to handle your finances for you.
- **ADVANCED HEALTH CARE DIRECTIVE / LIVING WILL**
  - Names an agent to make healthcare decisions for you.
  - Can tell your loved ones not to keep you on life support.

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# Communicating Your Desires

## Make sure your loved ones know:

- If you've named them as agents, guardians, trustees or executors.
- Where your documents are located, and how to access them.
- What assets you have (and the information required to track them down).
- Specific health care desires, if any.
- Specific funeral desires, if any.
- That they should investigate potential post-death military benefits.

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# Estate Planning NMPS Logistics



**When is the last time you reviewed your will?**

Can be a time-consuming process:

- 1) Complete a Will Packet.
- 2) Go to legal at the designated time.
- 3) Meet with a JAG attorney.
- 4) Return to sign your documents.

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# Powers of Attorney

- Powers of attorney are legal documents where you (the “principal”) grant someone else (the “agent”) the legal authority to act on your behalf
- Common uses for a power of attorney allow your agent to act on your behalf to:
  - Endorse or cash checks in your name
  - Sell, register, transport, or purchase your vehicle
  - File your income tax returns
  - Enter or vacate military housing for you
  - Buy, sell, or refinance your real estate

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# Powers of Attorney

- There are two common types of Powers of Attorney:
  - General
    - A “General” power of attorney gives your agent unlimited power to act on your behalf
    - Benefits: you don’t have to guess what will need to be done during your deployment because it allows your agent to do everything on your behalf
    - Problems: the power that it provides may be abused, and some businesses may not accept it due to its broad nature
  - Special
    - A “Special” power of attorney gives your agent limited power to do a specific thing (to register your car, for example)
    - Special powers of attorney are more likely to be honored by businesses and creditors
    - They are generally required for financial and real estate issues

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## ➤ Power of Attorney for Child Care (*In Loco Parentis*)

- Allows you to delegate legal authority to care for your minor children.
- Enables caregiver to register your children for school or daycare
- Authorizes caregiver to obtain medical treatment for your child.
- It can be in addition to, not a substitute for, a Family Care Plan.
- It is not the same as legal or physical custody, those require a court order.

## Power of Attorney – ECRC Logistics

1. Show-Up at Bldg. A-50 (Mon – Thurs 0745-1145, 1245 - 1545, and Fri 0745 – 1230).
2. File out a worksheet or use:  
[http://www.jag.navy.mil/legal\\_services/SPOA.htm](http://www.jag.navy.mil/legal_services/SPOA.htm) .
3. Same day turn around.



# Identity Theft

Under the Fair Credit Reporting Act (FCRA) ---

- you are entitled to one free credit report per year from Equifax, Experian, and TransUnion. Go to

[www.annualcreditreport.com](http://www.annualcreditreport.com)

- Look for:
  - signs of identity theft, accounts you didn't open.
  - Default judgments in court cases you didn't know about.
- The FCRA requires the credit reporting agency to correct any errors. Ask for them to be investigated and fixed!
- Consider placing a **fraud alert** (free for active duty), go online or call, requesting that your identity is verified prior to someone opening or modifying accounts.





# SERVICEMEMBERS CIVIL RELIEF ACT

## Purposes of SCRA

- The purposes of this Act are—
- **(1)** to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to **devote their entire energy to the defense needs of the Nation**; and
- **(2)** to provide for the **temporary suspension of judicial and administrative proceedings and transactions** that may adversely affect the civil rights of servicemembers during their military service.

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# SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

## Receive Continuances of Civil Cases

If you cannot attend a civil hearing due to your military service you are entitled to a delay (a “continuance”):

Prior to the court date, you must provide:

Letter from you AND your commanding officer

Explaining military obligations prevent you from attending, leave is not authorized, and a date that you can appear in court.



## Re-Open Default Judgments

If a judgment is entered against you, in your absence, you can re-open the case if:

You had a meritorious defense.

Your military service materially affected your ability to appear in the case.

**Do NOT ignore court paperwork (pleadings, subpoenas, jury duty).**



# SCRA - Other Court Provided Benefits



**Under the SCRA, a court has discretion to grant you additional time to comply with ANY pre-service obligations, liabilities, taxes or assessment, if your ability to pay is materially affected by military service.**

**The SCRA requires a COURT ORDER before**

- **The contents of your storage unit can be sold.**
- **Your car (purchased pre-service) can be repossessed.**
- **Your home (purchased pre-service) can be foreclosed upon.**





# Landlord Tenant / SCRA

## Court Order Required for Eviction

Know that your family cannot be evicted while you are on active duty, without the approval of a judge, who is empowered to grant other relief.

## Terminate your lease:

Under the SCRA , you are allowed to terminate a residential lease due to **PCS** Orders or **deployment** of more than 90 days without penalty, NDAA 2020; illness, injury, retirement, and spouse of deceased SM.

You have to provide **written notice**, copy of your orders, and pay for one full month of rent after you give notice.



**JAGs routinely answer questions about breaking your lease and receiving your security deposit back.**

The SCRA trumps what is provided for in your lease, unless you waived your rights!



# SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

## Reduce Pre-Service Debt to 6% Interest

Applies to loan balances that were incurred by you prior to a period of active duty.

Student Loans

(Not Federal Government)

Credit Cards

Automobile Loans

Mortgages + More



Your service is supposed to materially affect your ability to pay.

CAPs your interest rate charge at 6% during the time that you are on active duty.

This benefit is **RETROACTIVE**, meaning you can apply for it now even if you didn't request it before.

Some lenders do better than 6%!



# (SCRA) Other Benefits



**Terminate or Suspend your cell phone service, if you are deploying where there is no service for 90+ days.**

**Terminate your automobile lease if PCS-ing OCONUS or deploying 180+ days.**



- Custody protections. (3938)
- No adverse reporting (3919)
  
- Check state laws for SCRA-like benefits;
  - VA: gym memberships and satellite radio
  - CA: 6 month deferment on mortgages

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# SCRA and Taxes

- Toll the statute of limitations during military service (3936). (Does not apply against IRS, but does against state and local). Deferral of tax collection, no interest or penalty on deferred taxes. (4000)

SCRA update for 2018 and beyond:

- If spouse moves only to be with a PCS'ing spouse, spouse may now select the state of the military spouse when filing state tax returns; this means that if the service member files taxes in a no income tax state (Alaska, Florida, Nevada, South Dakota, Texas, Washington or Wyoming), or a low income tax state, the spouse may elect to file in that state as well. Caveats apply. 50 USC 4001(c)

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# Tax Extensions

If you are deployed during the tax season (January through mid-April), the IRS provides three types of extensions:

- First, for those deployed to a **combat zone or in support of contingency operations**, the IRS provides an **automatic** extension for *filling and payment* of any taxes you owe *until 180 days after you return from the combat zone (plus any days you were deployed during that particular tax season)*.
  - For example, if you returned from a deployment on 15 January, you have 195 days (180 days plus the 15 days of the tax season you were deployed) to file and pay your taxes.

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# Taxes

You are able to notify IRS directly of your request for combat zone relief for extensions of deadlines through a special e-mail address:

**[combatzone@irs.gov](mailto:combatzone@irs.gov)**

In your email, you should provide your:

Name

Stateside address

DOB,

Date of deployment to the combat zone

Do not include your SSN.

Notification may be made by taxpayer, spouse (if you file jointly, s/he is covered too), or an authorized agent or representative.

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# Taxes

If you are deployed during the tax season (January through mid-April), the IRS provides three types of extensions:

- Second, for those who are **living outside the United States** (but not deployed to a combat zone or in support of contingency operations) the IRS provides an **automatic two month extension** of the deadline to file your taxes.

\*HOWEVER, the **deadline to pay any taxes *does not* extend**. If you file after the deadline and you owe taxes, you will be charged interest and penalties on the amount you owed starting on the last day of the tax season.

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# Taxes

- If you are deployed during the tax season (January through mid-April), the IRS provides three types of extensions:

Third, any taxpayer can file **IRS Form 4868** before the last day of the tax season to receive a **6 month extension** to file

- The extension is automatic after you file the form
- but **does not extend the deadline to pay** taxes and you will be required to pay interest on any taxes owed.



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# Family Law Issues

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**Marriage  
Separation/  
Divorce  
Non-Support Claims**

**Paternity/  
Custody/Visitation  
Child Support**



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# Uniformed Services Employment and Reemployment Rights Act

## Purposes of USERRA

- (1) to **encourage non-career service in the uniformed services** by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;
- (2) to **minimize the disruption** to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by **providing for the prompt reemployment of such persons upon their completion of such service**; and
- (3) to **prohibit discrimination** against persons because of their service in the uniformed services.

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# USERRA Re-Employment Requirements

A service member is entitled to PROMPT reinstatement after return from active duty if:

1. Held a position of employment (other than temporary or seasonal employment);
2. The absence was due to military service;
3. Advance notice (oral or in writing) was given to the employer;
4. The cumulative period(s) of military service while employed by the employer did not exceed five years;
5. Timely application for reemployment;
6. And the discharge from service was not disqualifying.

Must receive an Honorable or General under Honorable conditions

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# Timely Reapplication Rule

<31 days	The time required to return home safely, have an eight hour rest period, and then the <u>beginning of the first regularly scheduled work period</u>
31-180	<u>14 days</u>
181+	<u>90 days</u>
Service related illness/ injury	Deadline extended to <u>2 years</u> during recovery. <i>Employers required to make reasonable efforts to accommodate the disability.</i>

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# USERRA Re-Employment Rights

- Receive the same job that you would have attained had you not been absent for military service ("escalator" principle)
  - With the same seniority, status and pay, as well as other rights and benefits determined by seniority.

**National Committee for Employer Support of the Guard and Reserve**  
**INFORMAL RESOLUTION/MEDIATION**

**1-800-336-4590**

**[www.esgr.mil](http://www.esgr.mil)**

**YOUR RIGHTS UNDER USERRA**  
**THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT**

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

<p><b>REEMPLOYMENT RIGHTS</b></p> <p>You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:</p> <ul style="list-style-type: none"> <li>• you ensure that your employer receives advance written or verbal notice of your service;</li> <li>• you have five years or less of cumulative service in the uniformed services while with that particular employer;</li> <li>• you return to work or apply for reemployment in a timely manner after conclusion of service; and</li> <li>• you have not been separated from service with a disqualifying discharge or under other than honorable conditions.</li> </ul> <p>If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.</p>	<p><b>HEALTH INSURANCE PROTECTION</b></p> <ul style="list-style-type: none"> <li>• If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.</li> <li>• Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.</li> </ul>
<p><b>RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION</b></p> <p>If you:</p> <ul style="list-style-type: none"> <li>• are a past or present member of the uniformed service;</li> <li>• have applied for membership in the uniformed service; or</li> <li>• are obligated to serve in the uniformed service;</li> </ul> <p>then an employer may not deny you:</p> <ul style="list-style-type: none"> <li>• initial employment;</li> <li>• reemployment;</li> <li>• restoration in employment;</li> <li>• promotion; or</li> <li>• any benefit of employment</li> </ul> <p>because of this status.</p> <p>In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.</p>	<p><b>ENFORCEMENT</b></p> <ul style="list-style-type: none"> <li>• The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.</li> <li>• For assistance in filing a complaint, or for any other information on USERRA, contact VETS at 1-866-4-USA-DOL or visit its website at <a href="http://www.dol.gov/vets">http://www.dol.gov/vets</a>. An interactive online USERRA Advisor can be viewed at <a href="http://www.dol.gov/laws/userrra.htm">http://www.dol.gov/laws/userrra.htm</a>.</li> <li>• If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.</li> <li>• You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.</li> </ul>

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/eo/programs/assent/assent.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.

U.S. Department of Labor 1-866-487-2365      U.S. Department of Justice      Office of Special Counsel      1-800-336-4590  
 Publication Date—October 2008

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# Lee surrenders to Grant (USERRA/SCRA/10USC1044d v. state and local law)



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# Navy Disability Evaluation System Counsel, Wounded Warrior

- Servicemembers have the right to consult with an attorney. Disability attorneys can assist servicemembers throughout the integrated disability evaluation system (IDES)/medical evaluation board (MEB) process.
- <http://www.jag.navy.mil/ides/index.html>
- Navy Safe Harbor now Navy Wounded Warrior (<https://www.navywoundedwarrior.com>)

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# Where do I go for Legal Assistance?

For powers of attorney, use the self-help kiosk at RLSO/LA lobby.

Go online:

[http://www.jag.navy.mil/legal\\_services/rlso/rlso\\_mid\\_atlantic.htm](http://www.jag.navy.mil/legal_services/rlso/rlso_mid_atlantic.htm)

We can make an APPOINTMENT to discuss your particular situation at the Norfolk Office. **(757) 341-4489**

There are Army, Air Force, Navy, Marine, Coast Guard JAG Legal Assistance offices worldwide. **Find one at** <http://legalassistance.law.af.mil/content/locator.php>

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# Resources

- RLSO:  
[http://www.jag.navy.mil/legal\\_services/rlso/rlso\\_mid\\_atlantic.htm](http://www.jag.navy.mil/legal_services/rlso/rlso_mid_atlantic.htm)
- Legal Assistance:  
<http://legalassistance.law.af.mil/content/locator.php>
- **SCRA: Servicemembers.gov**
- Credit Report: [www.annualcreditreport.com](http://www.annualcreditreport.com)
- IRS: [combatzone@irs.gov](mailto:combatzone@irs.gov), Publication #3
- USERRA: <http://www.dol.gov/vet>; [www.esgr.mil](http://www.esgr.mil); <https://www.ecfr.gov>  
(CFR Title 20, Part 1002)
- Disability: <http://www.jag.navy.mil/ides/index.html>
- Reserve Organization of America,  
<https://www.roa.org/page/LawCenter>
- NJS QUICKMAN  
<https://www.jag.navy.mil/documents/NJS/Quickman.pdf>

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