

TESTIMONY OF  
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BEFORE THE  
SUBCOMMITTEE ON BENEFITS  
COMMITTEE ON VETERANS' AFFAIRS  
HOUSE OF REPRESENTATIVES

THE SERVICEMEMBERS' CIVIL RELIEF ACT  
H.R. 5111

AND

THE SOLDIERS' AND SAILORS' CIVIL RELIEF EQUITY ACT  
H.R. 4017

JULY 24, 2002

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Mr. Chairman and members of the Subcommittee, thank you for giving me the opportunity to come before you this morning to discuss H.R. 5111, the Servicemembers' Civil Relief Act and H.R. 4017, the Soldiers' and Sailors' Civil Relief Equity Act.

The Department of Defense supports H.R. 5111's restatement of the Soldiers' and Sailors' Civil Relief Act as the Servicemembers' Civil Relief Act. The need to modernize the language of the Act, incorporate over 60 years of case law, and add generally accepted practices is evident. The Department of Defense believes H.R. 5111 accomplishes this goal and would like to thank the Committee and its staff for their work on this important bill.

The Soldiers' and Sailors' Civil Relief Act of 1940 has been an essential ingredient in the total quality of life package for our military men and women, and their families, since its passage. In passing this Act and its Civil War and World War I era predecessors, Congress recognized that active military service may cause severe, often insurmountable, problems in handling personal affairs back home: frequent involuntary moves, extended deployments overseas, long separations from families sometimes with little advance notice. Congress also recognized the need to have military men and women focused on their operational mission free from worry about the welfare of their families or their personal affairs.

Congress addressed these problems adequately and equitably through the Act's skillfully crafted balance among the needs of our nation for a strong national defense, the needs of Servicemembers – and their families – for security in their personal affairs, and the needs of those who have dealt with and depend upon Servicemembers for fulfillment of their obligations.

H.R. 5111 maintains this important balance while addressing three areas where our experience with the Act indicates that change is needed: clarifying and simplifying the language; incorporating generally accepted procedures; and updating the Act to reflect 60 years of change in America. With the on-going war and reserve mobilization, now is a good time to update and clarify the Act so it can remain vital and continue to serve the needs of military members and those with whom they do business.

The questions most frequently asked by Servicemembers, their families, and those who deal with them reveal that parts of the Act are difficult to read and understand, and therefore difficult to follow. It is apparent from these questions that the entire Act needs to be rewritten in plain English and in modern legislative drafting form. H.R. 5111 redrafts each section, updating the language and removing much ambiguity.

Additionally, the Act fails to provide necessary procedural guidance in many areas. For example, although the Act specifically provides protections for Servicemembers in the form of a request for a stay of proceedings, it does not explain

how to go about obtaining the needed relief. H.R. 5111 provides this missing procedural guidance.

Finally, the world of 1940 could not have foreseen all the changes in American life that more than 60 years of technological advances and business practices would bring. The extensive use of leases for automobiles and business equipment could not possibly have been imagined over 60 years ago. H.R. 5111 reflects over 60 years of progress in America.

The Department of Defense has only a few concerns with H.R. 5111. First, the requirement of Section 105 that all persons in military service and entering military service be notified in writing of the benefits of this Act is unnecessary and would impose a significant administrative burden that would accomplish little. As under the current law, Congress should allow the Military Services to choose the most appropriate means for notifying servicemembers of their civil liability protections. Our experience indicates that handing everyone a list of the many provisions of this lengthy law would not be effective. Currently, the most widely used provisions are typically explained in briefings by legal assistance attorneys and in command newspapers and other command information forums. Also, servicemembers having civil legal problems are routinely referred to a legal assistance office, where even the infrequently used provisions of the Act are explained, if applicable to a servicemember's situation.

Additionally, the Department would like the Committee to consider adding language to H.R. 5111 that would define the meaning of the important term “material effect,” incorporate case law holding that the Act’s protections apply to business debts for which a servicemember is personally liable, and index the maximum rental amount covered by section 301 to account for inflation.

Finally, it appears that both sections 302 and 303 may have inadvertently been drafted to include a reference to section 108. We believe that the reference should be to section 107.

Before moving to H.R. 4017, I would again like to thank the Committee and its staff for all of the effort that has gone into this important bill.

The Department of Defense opposes H.R. 4017.

Members of the National Guard called or ordered to duty by a governor under section 502(f) of title 32 of the United States Code are under the command and control of state authorities and are subject to the laws and protections afforded by that state . This is true even though National Guard members serving in this status are paid by the United States. A Congressional determination of which civil liability protections to provide to

Guardsmen serving under state control is inconsistent with our federal system. The Department believes the states should make this determination.

The Department would support a concurrent resolution in which Congress would urge the states, territories, and government of the District of Columbia to enact laws and implement policies to provide civil liability protections similar to those provided under the Soldiers' and Sailors' Civil Relief Act (SSCRA) to members of their respective National Guard when serving other than on active duty under title 10 of the United States Code. We recently canvassed the states and territories and found that 21 of them have laws providing some type of SSCRA protections, with 12 of those states providing protections that are identical or nearly identical to those provided under SSCRA; several other states currently are considering legislation that would extend such protections to its Guardsmen.

We appreciate this opportunity to discuss these bills with you.