



SENATE BILL 420: NC Servicemembers Civil Relief Act.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 27, 2019
Introduced by:	Sens. Britt, Daniel	Prepared by:	Shawn Middlebrooks* Staff Attorney
Analysis of:	PCS to Second Edition S420-CSBQ-36		

OVERVIEW: Senate Bill 420 would enact the North Carolina Servicemembers Civil Relief Act to provide protections during certain civil proceedings and transactions for a servicemember engaged in military service and, in some instances, the servicemember's dependents. The bill would also clarify the right of a member of the North Carolina National Guard to take leave without pay from the member's civilian employment when called into service of the State by the Governor. The Proposed Committee Substitute (PCS) to Senate Bill 420 would clarify that military technicians may terminate a rental agreement when there has been a change in the technician's station orders or upon release or discharge from active duty service.

[As introduced, this bill was identical to H523, as introduced by Reps. Grange, Szoka, Goodwin, which is currently in House Homeland Security, Military, and Veterans Affairs.]

CURRENT LAW: The Servicemembers Civil Relief Act (SCRA) is a federal statute extending legal protections to active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard, and National Guard (when called to federal service for more than 30 consecutive days). The SCRA also applies to commissioned officers of the Public Health Service (PHS), and the National Oceanic and Atmospheric Administration (NOAA). In some instances, the SCRA also protects dependents of active duty personnel.¹

A member of the NCNG called into service of the State by the Governor has the right to take leave without pay from his or her civilian employment, and cannot be forced to use vacation or other accrued leave time for a period of active service. In addition, during a period of a NCNG member's State service or within 60 days after its conclusion, the member is entitled to a stay of any legal proceeding to which the member is

¹ Protections under Subchapter II of the SCRA include:

- Protection against default judgments.
- Stay of civil actions or proceedings, including child custody proceedings.
- Stay of fines or penalties under disputed contracts.
- Stay of execution on judgments or orders of attachment or garnishment.
- Tolling of statutes of limitation.
- Interest rate cap of six percent (6%) on preservice obligations (includes spouse if joint obligation).
- Child custody protections.

Protections under Subchapter III of the SCRA include:

- Protection against residential evictions (includes dependents).
- Protection against rescission of preservice installment contracts for real or personal property.
- Protection against foreclosure of transactions secured by real or personal property.
- Authority to terminate leases for residential real property and motor vehicles (includes dependents).
- Authority to terminate telephone service contracts.
- Limits on assignments of life insurance policies given as security for obligations.
- Protection against enforcement of storage liens.

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Director



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a party unless the court finds that the member's ability to litigate is not materially affected by reason of the military service.

BILL ANALYSIS:

Section 1.(a) of the bill would enact the North Carolina Servicemembers Civil Relief Act (NCSCRA), which would apply to:

- Active duty members of the Army, Navy, Air Force, Marines, and Coast Guard.
- Members of the NC National Guard (NCNG) under State service for more than 30 days.
- Members of another state's National Guard under that state's service for more than 30 days.
- Active service officers of the PHS and NOAA.

The NCSCRA would:

- Apply the rights, benefits and protections of the SCRA to a servicemember engaged in military service to the extent the military service materially affects their ability to comply with their obligations.
- Expand certain protections for dependents of servicemembers:
 - Protections servicemembers have under Subchapter II of the SCRA would be extended to their dependents.
 - Contract termination rights (see below) would apply to dependents.
- Authorize termination of certain service contracts:
 - Servicemembers could terminate telephone, internet, cable TV, satellite radio, and prepaid entertainments contracts upon receipt of orders to relocate for 90 days to a location not supporting such services.
 - Upon termination of a contract by a servicemember, the service provider would be required to give the servicemember notice of the servicemember's rights.
 - Early termination charges for terminated contracts would be prohibited.
 - Fees prepaid beyond the termination date would be required to be refunded.
 - The servicemember would be required to pay any unpaid obligations due at time of termination.
- Restrict residential evictions:
 - Prohibit servicemembers from being evicted while on active duty.
 - Entitle servicemembers who are current on all rents and required security deposits and in good standing under the lease to extend residential leases that expire while on active duty.
- Make a knowing violation of the NCSCRA an unfair and deceptive trade practice under Chapter 75 of the General Statutes
- Authorize the Attorney General to commence a civil action against a person who violates the NCSCRA.
- Authorize civil penalties of up to \$5,000.00 per violation of the NCSCRA.
- Authorize a private action by a servicemember seeking injunctive relief, restitution, damages, court costs and attorney fees for violation of the NCSCRA.

Section 1.(b) would extend to all servicemembers on active duty the right to a court ordered stay of any litigation in which they are a party unless their military service does not materially affect their ability to litigate.

Section 1.(c) would require the NCNG to post on its Web site a list of the rights of servicemembers and their dependents under the SCRA and NCSCRA.

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Section 1.(d) would clarify who is entitled to exercise the rights for early termination of a rental agreement under G.S. 42-45 by striking any reference to *members of the Armed Forces* or the *Active Guard and Reserve*. G.S. 42-45 would only apply to *military technicians*. The rights of early terminate of a lease agreement for *Active Guard and Reserve members* are governed under G.S. 127B-32.

Section 2 would clarify that NCNG members would not be required to use vacation leave when called into State service by the Governor.

EFFECTIVE DATE: Section 1 of the act would be effective October 1, 2019, and would apply to contracts entered into, renewed, or modified on or after that date. The remainder of the act would be effective when it becomes law.

Billy Godwin, counsel to House Homeland Security, Military, and Veterans Affairs Committee, substantially contributed to this summary.