



## **CRS Report for Congress**

# **Servicemembers Civil Relief Act: Proposed Amendments in the 110<sup>th</sup> Congress**

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### **Summary**

The Servicemembers Civil Relief Act (SCRA), P.L. 108-189, was enacted on December 19, 2003, as a complete overhaul of the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). The SCRA provides certain rights and legal protections to enable servicemembers to devote their full attention to their military duties. To date, several bills proposing changes to the SCRA have been introduced in the 110<sup>th</sup> Congress. The proposed amendments cover subject matter such as credit ratings of servicemembers, cancellation of cellular phone service contracts, rent and mortgage relief, child custody agreements, and educational benefits. This report will be updated as events warrant throughout the 110<sup>th</sup> Congress.

### **Brief Historical Overview**

Congress passed the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA) as an attempt to minimize the burdens that members of the military may encounter in trying to meet their financial obligations while serving their country. The law has been amended from time to time, ordinarily in response to military operations that require the activation of the Reserves. P.L. 108-189, the Servicemembers Civil Relief Act (SCRA), which was enacted on December 19, 2003, amended the SSCRA in its entirety.<sup>1</sup>

The SCRA provides certain rights and legal protections to enable servicemembers to devote their full attention to their military duties. The law does not forgive any debts or extinguish contractual obligations on behalf of servicemembers who have been called up to active duty, nor does it provide absolute immunity from civil lawsuits. Instead, it provides for the suspension of claims and protection against default judgments. The act seeks to balance the interests of servicemembers with those of their creditors and others

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<sup>1</sup> For background, see CRS Report RL32360, *The Servicemembers Civil Relief Act (P.L. 108-189)*, by Estela I. Velez Pollack.

to whom the servicemember owes a legal obligation, spreading the burden of national military service to a broader portion of the citizenry.

## Proposed Amendments in the 110<sup>th</sup> Congress

Several bills proposing changes to the SCRA have been introduced in the 110<sup>th</sup> Congress.<sup>2</sup> The amendments cover subject matter such as credit ratings of servicemembers, cancellation of cellular phone and service contracts, rent and mortgage relief, child custody agreements, and educational benefits.

### Credit Rating

**H.R. 513, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the National Heroes Credit Protection Act.** Introduced on January 17, 2007, by Representative Brady, the bill amends the SCRA to enhance the protection of credit ratings of active duty military personnel who have been activated for service. On June 21, 2007, the House Committee on Veterans' Affairs Subcommittee on Economic Opportunity held hearings on the bill.<sup>3</sup>

The bill requires any person or entity engaged in the practice of assembling or evaluating consumer credit information that receives a negative report of nonpayment or late payment by a servicemember to enter a notation that the account is delinquent due to military service. Only accounts opened by the servicemember prior to entering military service and only obligations incurred on the account prior to that date would qualify for the protection. Any future creditor of the member would be required to disregard any negative information on a credit report that includes the military service notation.

**H.R. 1598, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Servicemembers Credit Protection Act.** Introduced on March 20, 2007, by Representatives Israel and G. Davis, the bill was referred to the Committee on Veterans' Affairs Subcommittee on Economic Opportunity and the Committee on Financial Services Subcommittee on Financial Institutions and Consumer Credit. On June 21, 2007, the Subcommittee on Economic Opportunity held hearings on the bill.<sup>4</sup>

The bill requires the Secretary concerned to notify each consumer reporting agency within 30 days of deployment of a servicemember away from his/her usual duty station to an area that entitles the member to hostile fire/imminent danger special pay. Additionally, the Secretary is required to notify the reporting agencies within 30 days of the completion of the member's deployment. The consumer reporting agency will place a combat zone duty alert in the member's consumer file. The penalty for violations of protections against eviction, foreclosure, and termination of leases of members with a

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<sup>2</sup> H.R. 1315, not included in the discussion, proposed an amendment related to mortgage protection that was removed from the bill. The removed language was later included in H.R. 1750.

<sup>3</sup> Witness testimonies available online at [<http://veterans.house.gov/hearings/hearing.aspx?NewsID=38>].

<sup>4</sup> See *supra* note 3.

combat zone duty alert in his/her consumer file, increases to not more than three years imprisonment.<sup>5</sup>

## Rent and Mortgage Relief

***H.R. 1511, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), a bill to provide relief with respect to rent and mortgage payments for members of the reserve components who are called to active duty and to amend the Internal Revenue Code of 1986 to allow a refundable credit to lessors for payments foregone by reason of such relief.*** Introduced on March 13, 2007, by Representative Rohrabacher, the bill was referred to the Committee on Ways and Means and the Committee on Veterans' Affairs.

The bill provides rent or mortgage relief for a member of the reserve component who is ordered to report for military service for a period greater than 90 days. If, at the time orders are received, the member is a lessee of real property that is occupied as the primary residence, the member shall not be required to pay rent. The waiver of rent applies as long as the member is assigned to duty at a location that is sufficiently distant from the property so that the member is unable to reside at the property.

If the member of the reserve component, at the time orders are received, resides at real property that is occupied as the primary residence of the member or his/her dependents, and the property is owned by the member and secured by a mortgage, the member shall not be required to make any payment of principal or interest during the period of military service. Payments not paid, based on the relief provided under the bill, shall be deferred and appended, on a month-for-month basis, to the original mortgage, in the same amount as originally due. There is not a requirement in the bill for the member to be assigned a duty station sufficiently distant from the property so that the member is unable to reside at the property during the military service.

***H.R. 1750, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), a bill to extend from 90 days to one year the period after release of a member of the Armed Forces from active duty during which the member is protected from mortgage foreclosure.*** The bill was introduced on March 28, 2007, by Representative Wynn and referred to the Committee on Veterans' Affairs Subcommittee on Economic Opportunity. On June 29, 2007, the bill was forwarded by the subcommittee to the full committee.

The bill changes the length of time a servicemember, after release from active duty, is protected from mortgage foreclosure. The time period increases from 90 days to one year of protection. Representative J. Hall offered an amendment changing the effective date clause of the bill from February 1, 2003, to 90 days after enactment. The amendment was agreed to in the subcommittee by voice vote.

***H.R. 2855, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Wounded Heroes' Bill of Rights Act.*** The bill was introduced on June 25, 2007, by Representative Rodriguez and referred to the Committee on Veterans' Affairs Subcommittee on Health, the Committee

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<sup>5</sup> 50 U.S.C. App §§ 531(c)(1), 532(b)(1), 533(d)(1), 535(h)(1), 537(e)(1).

on Ways and Means, and the Committee on Armed Services Subcommittee on Military Personnel.

The bill provides one year of protection from mortgage foreclosure for individuals considered to be wounded heroes. Additionally, credit rating protection for a wounded hero is extended an additional year after the end of military service utilizing language similar to that included in H.R. 1598. The term wounded hero is defined as being any member of the armed forces or a veteran who, on or after September 11, 2001, was severely injured while serving on active duty.

## Child Custody

***H.R. 1585, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the National Defense Authorization Act for Fiscal Year 2008.*** H.R. 1585, as passed in the House, included child custody protection language. The Senate version does not include the child protection language. The bill is going to conference.

The bill provides that servicemembers deployed in support of a contingency operation are protected from changes in child custody orders. Courts are prohibited from modifying or amending any previous judgment or order, or issuing a new order that changes a custody arrangement existing at the start of the deployment. Courts may enter a temporary custody order if it is in the best interest of the child. Upon completion of the deployment, the custody order that was in effect immediately preceding the date of deployment is reinstated. If a motion for change of custody is filed upon completion of a deployment, the previous absence of the member by reason of the previous deployment may not be considered by the court in determining the best interest of the child.

## Education Benefits

***H.R. 2910, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the VETS Act of 2007.***<sup>6</sup> The bill provides for reimbursement of tuition to members of the armed forces for programs of education delayed by military service, for deferment of student loans, and reduced interest rates for members of the armed forces during periods of active duty service. Introduced on June 28, 2007, by Representatives S. Davis, Mitchell, and Walz. The bill was referred to the Committee on Veterans' Affairs Subcommittee on Economic Opportunity.

The bill provides for a refund of tuition and fees for the portion of a program in which the member did not get academic credit due to withdrawal or a leave of absence because of recall, activation, or orders to active duty. The member is also provided the right to reenter the program upon completion of military service at the same educational and academic status as when he/she left for service.

Student loans not in repayment status on the date that military service begins may be deferred at least 13 months after the completion of service. If the member reenters the same or a similar education program within 13 months of ending service, the entire

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<sup>6</sup> See also, S. 1718, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Veterans Education Tuition Support Act. The bill was introduced by Senators Brown and Salazar on June 27, 2007, and referred to the Committee on Veterans' Affairs.

period the education program was discontinued shall not be considered in determining when loan repayment is to begin.

## Service Contracts

**H.R. 3298, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the 21<sup>st</sup> Century Servicemembers Protection Act.** Representatives P. Murphy and Walz introduced the bill on August 1, 2007, and it was referred to the House Committee on Veterans' Affairs Subcommittee on Economic Opportunity. The bill allows servicemembers to terminate or suspend certain service contracts entered into before receiving notice of a permanent change of station or deployment orders, and to provide penalties for violations of the 6% interest rate limitations currently provided by SCRA.<sup>7</sup>

Servicemembers may suspend or cancel a contract entered into before beginning a period of military service greater than 90 days. Members receiving permanent change of station orders from a location in the continental United States to a location outside the continental United States, or members receiving orders from a location in a state outside the continental United States to any location outside that state, are eligible to suspend or cancel the contract. Additionally, any member receiving deployment orders for a period of not less than 180 days is eligible to suspend or cancel the contract. Contracts for cellular phone service, cable or satellite television service, Internet service, automobile insurance, water, electricity, oil, gas, telephone, or other utility are covered under the bill.

The bill adds a provision pertaining to the maximum interest rate that may be charged on debts incurred before military service. Any person who knowingly violates the maximum 6% interest rate protection is subject to a penalty consisting of a fine and/or imprisonment for not more than one year.

**S. 1313, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Servicemembers' Cellular Phone Contract Fairness Act of 2007.** Senator Feingold introduced the bill on May 7, 2007, and it was referred to the Committee on Veterans' Affairs.

The bill provides servicemembers the right to cancel a contract for cellular phone service that was entered into prior to beginning military service if the period of service will be greater than 90 days. Members may cancel the contract if they are deployed for a period greater than 90 days or are permanently stationed at a location where the contract cannot be transferred at the same rate, terms, and quality of service. Dependents of the member may also cancel a cellular contract if they relocate while accompanying the member on orders, or otherwise relocate as a consequence of the military orders.

**S. 1315, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Disabled Veterans Insurance Improvement Act of 2007.** Introduced by Senator Akaka on May 7, 2007, it was referred to the Committee on Veterans' Affairs. As of August 29, 2007, the bill was placed on the Senate Legislative Calendar under General Orders. Calendar No. 336.

The bill provides servicemembers the right to terminate or suspend a contract for cellular phone service if they receive orders to deploy for more than 90 days.

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<sup>7</sup> 50 U.S.C. App. § 527.

**S. 2033, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2007), the Cell Phone Consumer Empowerment Act of 2007.** The bill provides for greater disclosure to, and empowerment of, consumers who have entered into a contract for cellular telephone service. It was introduced on September 7, 2007, by Senators Klobuchar and Rockefeller, and referred to the Committee on Commerce, Science, and Transportation.

The bill provides servicemembers the right to cancel a contract for cellular phone service if the contract was entered into prior to entering military service for a period greater than 90 days. The member may also cancel the contract if he/she receives permanent change of station orders outside the continental United States, or to deploy with a military unit for a period of not less than 90 days, to a location that does not support continuation of the service.