

HOUSE BILL REPORT

HB 1056

As Reported by House Committee On: Judiciary

Title: An act relating to consumer protections for military service members on active duty.

Brief Description: Concerning consumer protections for military service members on active duty.

Sponsors: Representatives Kilduff, Muri, Appleton, Shea, Lovick, MacEwen, Stanford, Reeves, Fitzgibbon, Frame, Ormsby, Jinkins, Bergquist, Goodman, Gregerson, Kirby, Fey, Slatter and Sawyer; by request of Attorney General.

Brief History:

Committee Activity:

Judiciary: 1/11/17, 1/19/17 [DP].

Brief Summary of Bill

- Changes the definition of "service member" for purposes of the Washington Service Members' Civil Relief Act (WSCRA).
- Allows the Washington Attorney General to recover costs and reasonable attorneys' fees in an action brought to enforce the WSCRA.
- Provides a mechanism in the WSCRA for the termination, suspension, and reinstatement of certain telecommunication, Internet, health studio, and television service contracts.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Haler, Hansen, Kirby, Klippert, Orwall and Shea.

Staff: Cece Clynch (786-7195).

Background:

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.

The Washington Service Members' Civil Relief Act (WSCRA) provides certain rights for service members who are under a call to active service, authorized by either the President of the United States or the Governor, for a period of more than 30 consecutive days. For purposes of the WSCRA, "service member" means any resident of Washington who is a member of the national guard or member of a military reserve component. The WSCRA also extends these rights to certain dependents of the service member.

The WSCRA provides rights 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.

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 (AG) is also authorized to 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. Prior to commencing a civil action, the AG may issue civil investigative demands for the discovery of material information relevant to an investigation of a violation of the WSCRA.

Modeled on portions of the federal Servicemembers Civil Relief Act (SCRA), the WSCRA provides that the SCRA applies in proper cases in all Washington courts, and a violation of the SCRA is a violation of the WSCRA. The SCRA contains a number of other rights for service members, including: reducing interest rate obligations on preservice loans to 6 percent; protecting service members from evictions and property foreclosures, cancellation of life insurance, and the loss of certain rights to public land; and enabling the cancellation of contracts for telephone service.

Summary of Bill:

The definition of "service member" is amended to mean "an active member of the United States Armed Forces, a member of a military reserve component, or a member of the National Guard who is either stationed in, or a resident of, Washington state."

In an enforcement action brought by the Washington Attorney General, the equitable or declaratory relief granted by the court may include costs and reasonable attorneys' fees.

A service member in receipt of military service orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation for a period

of not less than 30 days, may terminate or suspend the following contracts upon written notice:

- *Telecommunication services from a telecommunications company.* "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. A "telecommunications company" includes persons or entities operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within the state. There is an exception for any service provided by a commercial mobile radio services provider. In such cases, the service member may terminate the contract in accordance with the federal Servicemembers Civil Relief Act.
- *Internet services provided from an Internet service provider.*
- *Health studio services from a health studio.* Subject to certain specified exceptions, "health studio" includes any person or entity engaged in the sale of instruction, training, assistance or use of facilities which purport to assist patrons to improve their physical condition or appearance through physical exercise, body building, weight loss, figure development, the martial arts, or any other similar activity.
- *Subscription television services from a television service provider.* "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Services may include, but are not limited to, those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission.

Written notice includes electronic mail. The service member must provide proof of the official orders with the written notice or, if precluded by military necessity or circumstances that make the provision of proof unreasonable or impossible, within 90 days after written notice. Termination or suspension of services is effective on the day written notice is given, but does not eliminate or alter any contractual obligation to pay for services rendered before the effective date unless otherwise provided by law.

Upon the provision of written notice to the service provider, within 90 days after the termination of military service, the service member may reinstate the terminated or suspended services:

- on the same terms and conditions if the service member was in military service no longer than 12 consecutive months; or
- if in military service longer than 12 consecutive months, on the same terms and conditions that have been offered by the provider to any new consumer at the lowest discounted or proportional rate within the previous 12-month period.

Reinstatement must occur within a reasonable period of time not to exceed 30 days from the receipt of written notice. If the particular service is no longer available, the service provider must provide substantially similar services.

A service member who terminates, suspends, or reinstates the provision of these services may not be charged a penalty, fee, loss of deposit, or any other additional cost, and is not liable for payment for any services after the effective date of the termination or suspension, or until the effective date of reinstatement.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Military personnel receive orders and must move at the drop of a hat. In the course of doing so, they must sever certain contractual ties and sometimes face penalties and fines for doing so. This is not fair. This bill expands protections. It allows service members to provide written proof of their orders and get out of certain contracts without incurring fines and penalties. Military persons don't hesitate to take on their duties and move around the world and shouldn't have to pay a financial price for following orders. Some states have already done this. Many of the contractual services covered in this bill weren't even around 40 years ago. Federal and state laws provide some protections. This bill is intended to help reduce the stress and distraction these contractual issues can cause to those deployed. It builds on former protections and covers some long-term contracts that haven't previously been covered.

(Opposed) None.

Persons Testifying: Representative Kilduff, prime sponsor; Representative Muri; Travis Alley, Office of the Attorney General; and Mark San Souci, Department of Defense.

Persons Signed In To Testify But Not Testifying: None.