

SENATE BILL REPORT

SB 5041

As Passed Senate, February 27, 2017

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: Senators Baumgartner, Bailey, Conway, Rolfes, Darneille, Zeiger, Chase and Wellman; by request of Attorney General.

Brief History:

Committee Activity: Law & Justice: 2/15/17, 2/16/17 [DP].

Floor Activity:

Passed Senate: 2/27/17, 49-0.

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.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frock and Wilson.

Staff: Tim Ford (786-7423)

Background: The Washington Service Members' Civil Relief Act (WSCRA) was enacted in 2005 to assist service members and their dependents whose financial and legal obligations may be impacted by active military duty. The WSCRA specifically applies for Washington

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residents who are members of the National Guard or a military reserve component and who are under a call to active service for a period of more than 30 days. The main provisions of the WSCRA provide 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.

The WSCRA was modeled on the portions of the federal Service Members Civil Relief Act (SCRA) relating to default judgments and stays of civil proceedings. The SCRA contains a number of other rights for service members, including reducing interest rate obligations on pre-service loans to 6 percent, and protecting service members from evictions and property foreclosures, cancellation of life insurance, and losing certain rights to public land. Congress amended the SCRA in the Veterans' Benefits Act of 2010 (VBA) to include an enforcement mechanism through either a private right of action or an action by the United States Attorney General. Under the VBA amendments, a person covered by the SCRA may bring a private civil action for a violation of the SCRA, and remedies may include equitable or declaratory relief, damages, and costs and reasonable attorneys' fees. In addition, the United States Attorney General is authorized to bring an action to enforce the SCRA against a person who engages in a pattern or practice of violating the SCRA or engages in a violation that raises an issue of significant public importance. Remedies may include equitable or declaratory relief, damages, and civil penalties of up to \$55,000 for a first violation and up to \$110,000 for subsequent violations.

In 2014, the Legislature amended the WSCRA to authorize a private right of action, or an action by the Washington Attorney General, to enforce the provisions of the WSCRA. The 2014 amendment also provides that the federal SCRA applies in proper cases in Washington courts, and a violation of the federal act is a violation of the WSCRA.

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 a civil 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 may terminate or suspend certain service contracts where the service member receives military orders for a permanent change of station, or military deployment for not less than 30 days. The following specified service contracts may be terminated or suspended:

- telecommunications services from a telecommunications company;
- Internet services from an Internet service provider;
- health studio services from a health studio; and
- subscription television services from a television service provider.

A termination or suspension is effective on the day written notice is given, which may include email. The service member's written notice must provide written proof to the service provider of their official orders. The termination or suspension of services does not remove a

contractual obligation to pay for services rendered prior to the effective date of the termination or suspension.

A service member may reinstate the services by written notice within 90 days after termination or suspension. The reinstatement of services must be on the same terms and conditions as originally agreed prior to termination or suspension if the service member was in military service no longer than 12 consecutive months. If longer than a 12 consecutive month period, then the terms and conditions must be the same as offered to any new consumer at the lowest discounted or promotional rate within the previous 12 months. Upon receipt of written notice to reinstate service, the provider must resume the service, or if no longer available, a substantially similar service within 30 days after the date of receipt for reinstatement.

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

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill builds on existing protections in law. It will help service members suspend service contracts like gym memberships while on active duty. When our service members are deployed, they need to have their minds focused on their mission, and not be distracted by other issues at home.

Persons Testifying: PRO: Travis Alley, Attorney General's Office; Mark San Souci, Department of Defense, State Liaison Office; Ted Wicorek, Veterans Legislative Coalition.

Persons Signed In To Testify But Not Testifying: No one.