

Beyond the Yellow Ribbons - Part 2

"...gather around their sacred remains and garland the passionless mounds above them with choicest flowers of springtime... let us in this solemn presence renew our pledges to aid and assist those whom they have left among us as sacred charges upon the Nation's gratitude, -- the soldiers' and sailor's widow and orphan."

-- From General John A. Logan's
Decoration Day order, May 5, 1868

Since 1868, our nation has paused each May to remember and honor those who have died in our nation's service. This day, originally known as "Decoration Day," is now known as Memorial Day.

For years, Tennesseans have shown our emotional support for our men and women in combat. Displays of yellow ribbons and flags mean a great deal, but active service personnel also need help to handle their legal affairs and reduce their financial obligations while on active duty.

This is the second of three columns in honor of our nation's military service members and their families. These columns focus on the legal protections we have for women and men in military service. Part 1 looked at how the SCRA helps protect service members with loans and housing issues.

Q. What is the "SCRA"?

In Tennessee there are federal and state laws that help protect service members from legal hardship. One of the main laws is the federal Servicemembers' Civil Relief Act, or SCRA.

The SCRA applies in Tennessee and across the nation to all active duty members of the military, including the activated National Guard.

Q. Can the SCRA help with civil legal proceedings against service members?

Yes. For starters, the SCRA requires judges to grant a postponement, or "stay," in many kinds of civil lawsuits in which the service person is a defendant.

Other legal proceedings must also be delayed. For example, there is a ban on foreclosures to keep military personnel from losing their homes due to problems with mortgage loans while on active duty and up to three months after returning home. To get this protec-

tion, the loan must have been taken out before the service member began active duty.

Q. What if a service member cannot appear to answer a lawsuit?

Men and women in the military have protection from default judgments. Default judgments happen when someone is sued and does not respond to the suit or appear in court.

The SCRA requires the person or business that files the lawsuit, called the plaintiff, to inform the court clerk that the person being sued, called the defendant, is in the military.

Under the SCRA, persons on active duty are entitled to have the court appoint a lawyer to represent them in their absence and block a default judgment.

If a court does enter a default judgment against a person in military service, then it may be possible to re-open the case after the service member returns home.

Q. What does the SCRA say about repossession?

The SCRA rule is simple: no repossessions of goods purchased by installment contract, such as cars or furniture, without a court order. Businesses must go to court to get such an order if they want to repossess the goods belonging to a member of the military on active duty. The service person is given notice of the proceeding, and has the right to ask the court for a stay, or delay, of the proceeding.

Next week: Part 3 – employment protections

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Note: This column is not intended to take the place of legal advice. All cases are different and need individual attention. Consult with a private attorney of your choice to review the facts and law specific to your case.

The Legal Aid Society is a non-profit law firm, not a government agency, and all calls are strictly confidential. If you need more information on this or other common legal problems, please visit our Web site at www.las.org or call 1-800-238-1443.

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