

LAW REVIEW¹ 11100

November 2011

Please Don't Forget the Reserves

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

9.0—Miscellaneous

On November 9, 2011, Senator Roy Blunt of Missouri sent out a press release announcing that he had introduced S. 1820, the proposed “National Guard Outreach Act of 2011.” In his press release, he reported that his bill, if enacted, “would help to provide National Guardsmen and women with secure health services, marriage and financial counseling, substance abuse treatment and other services necessary to aid in a smooth transition for those returning home from Iraq and Afghanistan.”

His press release goes on to state, “Undiagnosed illnesses, left untreated, have long-lasting social, emotional, and financial impacts long after service members are re-integrated into a community. Many Guardsmen and women today lack health insurance and go without health care as well as behavioral health care. At no time in America’s history has the National Guard played such a critical role in the defense and security of our homeland. We must make sure all

¹I invite the reader’s attention to <https://www.roa.org/page/LawCenter>. You will find more than 2000 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General’s Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans’ Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

of our nation's heroes can fulfill their missions without worrying about supporting their families when returning home."

I looked up S. 1820 on "Thomas"—a system available on the website of the Library of Congress, www.loc.gov. I am pleased to report that under Senator Blunt's bill as introduced these critical services would be provided to all demobilized members of the seven reserve components, not just the Army National Guard and Air National Guard. But you would not know that from the title of the bill or from Senator Blunt's press release.

Each week, the Office of the Assistant Secretary of Defense for Reserve Affairs puts out a report showing the number of reserve component personnel currently on active duty and the total number called to the colors since the terrorist attacks of September 11, 2001. The most recent report shows that as of November 15, 2011 a total of 832,314 National Guard and Reserve personnel have been activated. Of those, 357,312 were members of the Army National Guard and 90,789 were members of the Air National Guard. Those two components account for 53.8% of those activated.

The other 46.2% are from the Army Reserve (202,737), the Navy Reserve (49,821), the Marine Corps Reserve (60,834), the Air Force Reserve (62,850), and the Coast Guard Reserve (7,971). All of these service members deserve the thanks of a grateful nation and services to help them readjust to civilian life.

This is not about rivalry between the National Guard and the other reserve components. The point is that all service members (Reserve, National Guard, and Regular) account for less than 3/4 of 1% of our nation's population (308,745,538 according to the 2010 Census).

The total force of today can be summarized by Prime Minister Winston Churchill. In a speech to the House of Commons on August 20, 1940, Churchill said:

The gratitude of every home in our island, in our empire, and indeed throughout the world, except in the abodes of the guilty, goes out to the British airmen who, undaunted by odds, unwearied in their constant challenge of mortal danger, are turning the tide of world war by their prowess and their devotion. Never in the field of human conflict was so much owed by so many to so few.

The Prime Minister's eloquent words about the Royal Air Force in the Battle of Britain apply equally to those who serve in the United States armed forces today.

Update – May 2022

S. 1820, the National Guard Outreach Act, has not been enacted.

Please join or support ROA

This article is one of 1800-plus “Law Review” articles available at www.roa.org/page/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation’s seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Officers Association
1 Constitution Ave. NE
Washington, DC 20002