

Your Grandson Must Register for Selective Service.

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

[About Sam Wright](#)

9.0—Miscellaneous

Q: I am a long-retired Army Reserve Colonel and a life member of the Reserve Organization of America (ROA).³ My grandson recently turned 18. I have reminded him more than once that he needs to register for Selective Service, but he insisted that registering is pointless because no one has been drafted by our government since 1973. He said that he “philosophically objects” to the draft and that he will not register. Is my grandson legally required to register? What is likely to happen to him if he persists in his refusal to register?

A: First, your grandson is required to register. Federal law provides:

Except as otherwise provided in this chapter, it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by

¹ I invite the reader’s attention to www.roa.org/lawcenter. You will find more than 2,000 “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. I am the author of more than 1,800 of the articles, but we are always looking for “other than Sam” articles.

² BA 1973 Northwestern University; JD 1976 University of Houston School of Law; LLM 1980 Georgetown University Law Center. I served as a judge advocate in the Navy and Navy Reserve and retired in 2007. I am a life member of ROA. I participated in the drafting of USERRA while employed as an attorney for the United States Department of Labor (1982-92). For six years (June 2009 through May 2015), I was the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA. Please see Law Review 15052 (June 2015) for a detailed discussion of the accomplishments of the SMLC. I have continued writing new “Law Review” articles as a volunteer and member of ROA. You can reach me by e-mail at SWright@roa.org.

³ At its 2018 annual convention, the Reserve Officers Association amended its Constitution to make all military personnel, from E-1 through O-10, eligible for full membership. The organization also adopted a new “doing business as” name—the Reserve Organization of America. The point of the name change is to emphasize that the organization now represents and admits to membership all military personnel, from the most junior enlisted personnel to the most senior officers.

proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 1101(a)(15) of Title 8 [of the United States Code], for so long as he continues to maintain a lawful nonimmigrant status in the United States.⁴

The burden of registering is tiny. Your grandson can register on-line on the Selective Service System website, or he can obtain, complete, and turn in the form at any post office. The chance that your grandson will ever be drafted is tiny. Congress eliminated the legal authority to draft young men in 1973, almost half a century ago, but Congress retained the requirement to register, as an insurance policy against an existential threat to our country. Reinstating the draft would require new legislation enacted by Congress.⁵ The purpose of registration is to expedite inducting young men into military service in the unlikely but not impossible event of a truly existential threat.

As I have explained in Law Review 17055 (June 2017) and other articles, I am very much opposed to proposals to reinstate the draft. The All-Volunteer Military has been very successful, and our country has the best motivated, best trained, best led, and best equipped military in the world, and perhaps in the history of the world. Of course, recruiting is always a challenge when there is no draft. I favor strict enforcement of laws like the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Servicemembers Civil Relief Act (SCRA) to make it possible for the services to recruit the necessary quality and quantity of personnel.⁶ While I oppose a new draft, except in dire circumstances that I do not anticipate, I favor draft registration as a necessary insurance policy.

From July 1953 (when the Korean War ground to an inconclusive halt) until August 1990 (when President George H.W. Bush responded forcefully to the invasion and occupation of Kuwait), our nation's Reserve Components were considered a "strategic reserve" to be called upon only for World War III, which thankfully never happened. In August 1990, President Bush called up National Guard and Reserve units as part of his forceful response to the occupation of Kuwait. That started the transformation of the Reserve Components from a "strategic reserve" to an "operational reserve" routinely called upon for intermediate military operations like Operation Desert Storm, Operation Enduring Freedom, and Operation Iraqi Freedom. That transformation accelerated after the terrorist attacks of 9/11/2001, the "date which will live in infamy" for our time.

⁴ 50 U.S.C. 3802(a).

⁵ In the first decade of this century, Representative Charles Rangel of New York repeatedly introduced bills to reinstate the draft. He never found a single co-sponsor.

⁶ Please see Law Review 17102 (October 2017).

With the National Guard and Reserve transformed from a strategic reserve to an operational reserve, where is the strategic reserve? That would be the Selective Service System and registration as a prerequisite to a total mobilization. It is essential that young men like your grandson register upon or soon after their 18th birthdays.

Q: If my grandson persists in his refusal to register, could he be criminally prosecuted? Does he face other adverse consequence for failure to register?

A: Yes, your grandson can be prosecuted for refusing to register. While a criminal prosecution is unlikely, other adverse consequences are likely. Federal law provides:

Except as provided in subsection (g), any person who is required under section 3802 of this title to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.⁷

In his Annual Report to Congress for Fiscal Year 2019, Selective Service System Director Donald Benton wrote:

Generally, the public is aware of our registration program—the most publicly visible mission component of the Selective Service. To that point, we are very successful, registering more than 92% of the nation’s draft eligible men and we continue to push those numbers upward.⁸

It is important for our national defense that almost 100% of young men register for Selective Service, as required by law. I hope that you will be able to persuade your grandson to register soon.

Q: My granddaughter will turn 18 in about two years. Will she be required to register for Selective Service?

A: As currently written, federal law only requires young men to register. Congress has seriously considered expanding the registration requirement to include young women as well as young men, but no such amendment has been enacted. It is entirely possible that such an amendment will be enacted before your granddaughter turns 18, or at least before she turns 26.

⁷ 50 U.S.C. 3811(f)(1).

⁸ See <https://www.sss.gov/wp-content/uploads/2020/03/Annual-Report-FY2019.pdf>.

ROA favors expanding the registration requirement to include young women as well as young men.⁹

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This article is one of 2,000-plus “Law Review” articles available at www.roa.org/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 100 years 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, 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 serving or have ever served in any of our nation’s seven uniformed services, you are eligible for ROA membership, 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 Organization of America
1 Constitution Ave. NE
Washington, DC 20002

⁹ ROA Resolution 13-03, renewed by ROA Resolution 16-07 and renewed again by ROA Resolution 19-14. I discuss the idea of requiring young women to register in Law Review 15028 (March 2015).