

Paid Military Leave for Public Employees in Alaska

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1.8: Relationship between USERRA and other laws/policies

2.0: Paid Leave

Alaska law provides as follows concerning paid military leave for employees of the state and its political subdivisions:

- (a) An employee of the state, or a political subdivision, with the approval of the city council or borough assembly, who is a member of a reserve or auxiliary component of the United States armed forces is entitled to a leave of absence without loss of pay, time, or efficiency rating on all days during which the employee is ordered to training duty, as distinguished from active duty, with troops or at field exercises, or for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16 1/2 working days in any 12-month period.
- (b) If an employee is called to active duty by the governor, an employee otherwise qualified under (a) of this section is entitled to five days leave of absence without loss of pay, time, or efficiency rating.

¹ BA 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 45 years, I have collaborated 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 38 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 <mailto:swright@roa.org>.

ALASKA STAT. § 39.20.340 (2022). In addition to the guaranteed to the guaranteed paid leave granted in Section 39.20.340, Section 39.20.345 provides that:²

Notwithstanding any contrary provision of law, the governor, through the issuance of an administrative order, may authorize state employees who are members of a reserve or auxiliary component of the armed forces of the United States, including the organized militia of Alaska, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force, and who are called to active duty by the appropriate state or federal authority to continue to receive the equivalent of their state compensation and some or all of their state benefits.

ALASKA STAT. § 39.20.345(a) (2022). State benefits include “credited service in a state retirement system, membership in the supplemental employee benefits system under AS 39.30.150--39.30.180, and group life and health insurance provided under AS 39.30.090--39.30.095 or under a collective bargaining agreement.” ALASKA STAT. § 39.20.345(c) (2022).

Access the Alaska Statute on Your Own

We do our best to keep these state law articles up-to-date and provide the most relevant sections of the applicable statute for you to review. Nonetheless, we still recommend you consult the most recent version of the law to make sure nothing has changed from what we discussed in this article. You can find a public version for yourself online, for free, at <https://www.akleg.gov/basis/statutes.asp#39.20.340>. When you click this link, you should be brought to Section 39.20.340, which is the first relevant section discussed in this article. If you are not brought directly to this section, type “39.20.340” in the search bar.

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² This section was added by Gavriel Swerling in August 2013.

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³ Congress recently established the United States Space Force as the 8th uniformed service.

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