

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is an important federal law which protects the civilian jobs of Reservists called to active duty. It protects a Reservist even if he or she volunteers for active duty. USERRA covers the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps. It also protects members of the Army National Guard and Air National Guard when they are called to federal service, known as Title 10 status.

USERRA applies to all types of service including active duty, active duty for training, inactive duty training (such as drills), initial active duty training, funeral honors duty performed by National Guard and reserve members, examination to determine fitness to perform any such duty, and certain disaster response work and training (Public Health Security and Bioterrorism Response Act of 2002).

If you are a full time, or even a part-time or probationary employee, you are protected by USERRA. Moreover, USERRA applies to most U.S. employers, no matter how small.

Under USERRA, a Reservist is entitled to return to work as follows:

- Less than 31 days service (including drills): Report to work by the beginning of the first regularly scheduled work period after the end of the calendar day of duty. One is entitled to time required to return home safely and rest or sleep for eight hours. If this is impossible or unreasonable, then as soon as possible;
- 31 to 180 days: Report to work no later than 14 days after completion of military service, or as soon as possible;
- 181 days or more: Report to work no later than 90 days after completion of military service, or as soon as possible;
- Service-connected injury or illness: If injured, then these deadlines are extended for up to two years if hospitalized or convalescing.

One's pension and health insurance benefits are also protected by USERRA. The employer must continue to allow pension plan benefits to accrued during military absence. USERRA permits Reservists to extend their employer-sponsored health coverage for up to 24 months. (Employers may require these individuals to pay up to 102% of total premiums for that elective coverage.)

USERRA also bars employers from discriminating against Reservists or veterans. This means that an employer cannot refuse to hire or promote a Reservist merely because he or she might be deployed.

If you are a Reservist and you believe your civilian employer may have violated USERRA, you have options.

- Seek help from the [Veterans' Employment and Training Service](#) (VETS).
- Call the Department of Labor and file a complaint. The DOL will investigate your claim. If DOL agrees with you, it will refer your case to a local United States Attorney's Office where a staff attorney can file suit in federal district court on your behalf. The advantage of using the DOL is that it is free. The disadvantage is that it is slow.
  
- Hire your own attorney. USERRA permits you to hire your own attorney and seek recovery of your legal fees. The advantage is that a private attorney will act quickly and effectively. The disadvantage is that you will pay for the attorney in some manner, whether by paying a portion of your settlement or judgment, or by paying a retainer in advance.

If you are a Reservist who served your country only to find that your civilian employer did not hold your job for your return, then please [contact](#) the Law Office of James W. Volberding immediately. Mr. Volberding is a major in the U.S. Army Reserve JAG Corps. He understands what it means to be a citizen soldier. He will explain your options, including if necessary, filing a federal lawsuit.