

AN ACT concerning service members.

WHEREAS, The persistent use of the reserve components as an operational force in continuous support of active duty has reinforced the need for robust service member employment protections; and

WHEREAS, Extreme weather events require State activations of the National Guard to save lives and protect property; and

WHEREAS, Terror threats require increased dependency on reserve components; and

WHEREAS, The Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301-4335) establishes the minimal legal protections of service member employees; and

WHEREAS, This Act is meant to consolidate and clarify existing State employment rights and protections; therefore

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Article 1. General Provisions.

Section 1-1. Short title; references to Act.

(a) Short title. This Act may be cited as the Service Member Employment and Reemployment Rights Act.

(b) References to Act. This Act may be referred to as ISERRA.

Section 1-5. Legislative intent. As a guide to the interpretation and application of this Act, the public policy of the State is declared as follows:

(1) The General Assembly recognizes the common public interest in safeguarding and promoting military service by:

(A) minimizing disadvantages to military service in civilian careers;

(B) providing for prompt reemployment and protections of service members in a manner that minimizes disruption to the lives of such employees, their employers, and co-workers;

(C) prohibiting discrimination against and interference with military service; and

(D) ensuring that public entities are model employers of reserve components by providing additional benefits.

(2) This law should be interpreted as comprising a foundation of protections guaranteed by this Act; therefore, nothing in this Act shall supersede, nullify, or diminish any federal or State law, including any local law

or ordinance, contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for in this Act. The benefits and protections under this Act cannot be diminished.

(3) This Act shall be liberally construed so as to effectuate the purposes and provisions of this Act for the benefit of the service member who has set aside civilian pursuits to serve his or her country or this State in a time of need. Such sacrifice benefits everyone but is made by relatively few.

(4) The new service member benefits under this Act are in force on and after the effective date of this Act.

Section 1-10. Definitions. As used in this Act:

"Accrue" means to accumulate in regular or increasing amounts over time subject to customary allocation of cost.

"Active duty" means any full-time military service regardless of length or voluntariness including, but not limited to, annual training, full-time National Guard duty, and State active duty. "Active duty" does not include any form of inactive duty service such as drill duty or muster duty. "Active duty", unless provided otherwise, includes active duty without pay.

"Active service" means all forms of active and inactive duty regardless of voluntariness including, but not limited to,

annual training, active duty for training, initial active duty training, overseas training duty, full-time National Guard duty, active duty other than training, State active duty, mobilizations, and muster duty. "Active service", unless provided otherwise, includes active service without pay.

"Active service" includes:

(1) Reserve component voluntary active service means service under one of the following authorities:

(A) any duty under 32 U.S.C. 502(f) (1) (B);

(B) active guard reserve duty, operational support, or additional duty under 10 U.S.C. 12301(d) or 32 U.S.C. 502(f) (1) (B);

(C) funeral honors under 10 U.S.C. 12503 or 32 U.S.C. 115;

(D) duty at the National Guard Bureau under 10 U.S.C. 12402;

(E) unsatisfactory participation under 10 U.S.C. 10148 or 10 U.S.C. 12303;

(F) discipline under 10 U.S.C. 802(d);

(G) extended active duty under 10 U.S.C. 12311; and

(H) reserve program administrator under 10 U.S.C. 10211.

(2) Reserve component involuntary active service includes, but is not limited to, service under one of the following authorities:

(A) annual training or drill requirements under 10

U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a).

(B) additional training duty or other duty under 32 U.S.C. 502(f)(1)(A);

(C) pre-planned or pre-programmed combatant commander support under 10 U.S.C. 12304b;

(D) mobilization under 10 U.S.C. 12301(a) or 10 U.S.C. 12302;

(E) presidential reserve call-up under 10 U.S.C. 12304;

(F) emergencies and natural disasters under 10 U.S.C. 12304a or 14 U.S.C. 712;

(G) muster duty under 10 U.S.C. 12319;

(H) retiree recall under 10 U.S.C. 688;

(I) captive status under 10 U.S.C. 12301(g);

(J) insurrection under 10 U.S.C. 331, 10 U.S.C. 332, or 10 U.S.C. 12406;

(K) pending line of duty determination for response to sexual assault under 10 U.S.C. 12323; and

(L) initial active duty for training under 10 U.S.C. 671.

Reserve component active service not listed in paragraph (1) or (2) shall be considered involuntary active service under paragraph (2).

"Active service without pay" means active service performed under any authority in which base pay is not received regardless of other allowances.

"Annual training" means any active duty performed under Section 10147 or 12301(b) of Title 10 of the United States Code or under Section 502(a) of Title 32 of the United States Code.

"Base pay" means the main component of military pay, whether active or inactive, based on rank and time in service. It does not include the addition of conditional funds for specific purposes such as allowances, incentive and special pay. Base pay, also known as basic pay, can be determined by referencing the appropriate military pay chart covering the time period in question located on the federal Defense Finance and Accounting Services website or as reflected on a federal Military Leave and Earnings Statement.

"Benefits" includes, but is not limited to, the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest, including wages or salary for work performed, that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"Differential compensation" means pay due when the employee's daily rate of compensation for military service is less than his or her daily rate of compensation as a public

employee.

"Employee" means anyone employed by an employer. "Employee" includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace that the State has legal authority to regulate business and employment. "Employee" does not include an independent contractor.

"Employer" means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including:

(1) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

(2) an employer of a public employee;

(3) any successor in interest to a person, institution, organization, or other entity referred to under this definition; and

(4) a person, institution, organization, or other entity that has been denied initial employment in violation of Section 5-15.

"Inactive duty" means inactive duty training, including drills, consisting of regularly scheduled unit training assemblies, additional training assemblies, periods of appropriate duty or equivalent training, and any special additional duties authorized for reserve component personnel by appropriate military authority. "Inactive duty" does not

include active duty.

"Military leave" means a furlough or leave of absence while performing active service. It cannot be substituted for accrued vacation, annual, or similar leave with pay except at the sole discretion of the service member employee. It is not a benefit of employment that is requested but a legal requirement upon receiving notice of pending military service.

"Military service" means:

(1) Service in the Armed Forces of the United States, the National Guard of any state or territory regardless of status, and the State Guard as defined in the State Guard Act. "Military service", whether active or reserve, includes service under the authority of U.S.C. Titles 10, 14, or 32, or State active duty.

(2) Service in a federally recognized auxiliary of the United States Armed Forces when performing official duties in support of military or civilian authorities as a result of an emergency.

(3) A period for which an employee is absent from a position of employment for the purpose of medical or dental treatment for a condition, illness, or injury sustained or aggravated during a period of active service in which treatment is paid by the United States Department of Defense Military Health System.

"Public employee" means any person classified as a full-time employee of the State of Illinois, a unit of local

government, a public institution of higher education as defined in Section 1 of the Board of Higher Education Act, or a school district, other than an independent contractor.

"Reserve component" means the reserve components of Illinois and the United States Armed Forces regardless of status.

"Service member" means any person who is a member of a military service.

"State active duty" means full-time State-funded military duty under the command and control of the Governor and subject to the Military Code of Illinois.

"Unit of local government" means any city, village, town, county, or special district.

Section 1-15. Differential compensation.

(a) As used in this Section, "work days" are the actual number of days the employee would have worked during the period of military leave but for the service member's military obligation. "Work days" are tabulated without regard for the number of hours in a work day. Work hours that extend into the next calendar day count as 2 work days.

(b) Differential compensation under this Act is calculated on a daily basis and only applies to days in which the employee would have otherwise been scheduled or required to work as a public employee. Differential compensation shall be paid to all forms of active service except active service without pay.

Differential compensation is calculated as follows:

(1) To calculate differential compensation, subtract the daily rate of compensation for military service from the daily rate of compensation as a public employee.

(2) To calculate the daily rate of compensation as a public employee, divide the employee's regular compensation as a public employee during the pay period by the number of work days in the pay period.

(3) To calculate the daily rate of compensation for military service, divide the employee's base pay for the applicable military service by the number of calendar days in the month the service member was paid by the military. For purposes of inactive duty, the daily rate of compensation for military service is calculated in accordance with the applicable drill pay chart issued by Defense Finance and Accounting Services.

Section 1-20. Independent contractors. Whether an individual is an employee or independent contractor under this Act is determined based on the following factors:

(1) the extent of the employer's right to control the manner in which the individual's work is to be performed;

(2) the opportunity for profit or loss that depends upon the individual's managerial skill;

(3) any investment in equipment or materials required for the individual's tasks, or his or her employment of

helpers;

(4) whether the service the individual performs requires a special skill;

(5) the degree of permanence of the individual's working relationship; and

(6) whether the service the individual performs is an integral part of the employer's business.

No single one of these factors is controlling, but all are relevant to determining whether an individual is an employee or an independent contractor.

Article 5. Service Member Employment Protections.

Section 5-5. Basic Protections. This Section incorporates Sections 4304, 4312, 4313, 4316, 4317, and 4318 of the Uniformed Services Employment and Reemployment Rights Act under Title 38 of the United States Code, as may be amended, including case law and regulations promulgated under that Act, subject to the following:

(1) For the purposes of this Section, all employment rights shall be extended to all employees in military service under this Act, unless otherwise stated.

(2) Military leave. A service member employee is not required to get permission from his or her employer for military leave. The service member employee is only required to give such employer advance notice of pending

service. This advance notice entitles a service member employee to military leave.

An employer may not impose conditions for military leave, such as work shift replacement, not otherwise imposed by this Act or other applicable law. This paragraph shall not be construed to prevent an employer from providing scheduling options to employees in lieu of paid military leave.

A service member employee is not required to accommodate his or her employer's needs as to the timing, frequency, or duration of military leave; however, employers are permitted to bring concerns over the timing, frequency, or duration of military leave to the attention of the appropriate military authority. The accommodation of these requests are subject to military law and discretion.

Military necessity as an exception to advance notice of pending military leave for State active duty will be determined by appropriate State military authority and is not subject to judicial review.

For purposes of notice of pending military service under paragraphs (2) or (3) of the definition of "military service" under Section 1-10, an employer may require notice by appropriate military authority on official letterhead. For purposes of this paragraph, notice exceptions do not apply.

(3) Service, efficiency, and performance rating. A service member employee who is absent on military leave shall, minimally, for the period of military leave, be credited with the average of the efficiency or performance ratings or evaluations received for the 3 years immediately before the absence for military leave. Additionally, the rating shall not be less than the rating that he or she received for the rated period immediately prior to his or her absence on military leave. In computing seniority and service requirements for promotion eligibility or any other benefit of employment, the period of military duty shall be counted as civilian service. This paragraph does not apply to probationary periods.

(4) State active duty ineligible discharge. For purposes of State active duty, a disqualifying discharge or separation will be the State equivalent under the Military Code of Illinois for purposes of ineligibility of reemployment under the Uniformed Services Employment and Reemployment Rights Act as determined by appropriate State military authority.

(5) A retroactive upgrade of a disqualifying discharge or release will restore reemployment rights providing the service member employee otherwise meets this Act's eligibility criteria.

Section 5-10. Additional benefits for public employee

members of a reserve component.

(a) Concurrent compensation. During periods of military leave for annual training, public employees shall continue to receive full compensation as a public employee for up to 30 days per calendar year and military leave for purposes of receiving concurrent compensation may be performed nonsynchronously.

(b) Differential Compensation. During periods of military leave for active service, public employees shall receive differential compensation subject to the following:

(1) Public employees may elect the use of accrued vacation, annual, or similar leave with pay in lieu of differential compensation during any period of military leave.

(2) Differential compensation for voluntary active service under Section 1-10 is limited to 60 work days in a calendar year.

(3) Differential compensation shall not be paid for active service without pay.

(4) Public employees who have exhausted concurrent compensation under subsection (a) of Section 5-10 in a calendar year shall receive differential compensation when authorized under subsection (b) of Section 5-10 in the same calendar year.

(c) Employer-based health plan benefits shall continue in accordance with Section 5-5 of this Act, except the employer's

share of the full premium and administrative costs shall continue to be paid by the employer for active duty.

(d) In the event that 20% or more employees of a unit of local government are mobilized under 10 U.S.C. 12301(a), 10 U.S.C. 12302, 10 U.S.C. 12304, or 10 U.S.C. 12304a, or 14 U.S.C. 712 concurrently, additional benefits under this Section are not required without funding for that purpose.

Section 5-15. Prohibitions on Discrimination. For the purposes of this Section, Section 4311 of the federal Uniformed Services Employment and Reemployment Rights Act entitled Discrimination Against Persons Who Serve in the Uniformed Services and Acts of Reprisal Prohibited and the regulations promulgated under that Act are incorporated.

Section 5-20. Notice of rights and duties.

(a) Each employer shall provide to employees entitled to rights and benefits under this Act a notice of the rights, benefits, and obligations of service member employees under this Act.

(b) The requirement for the provision of notice under this Act may be met by the posting of the notice where the employer's customarily place notices for employees.

Article 10. Violations.

Section 10-5. Violations. Any violation of Article 5 is a violation of this Act.

Article 15. Compliance.

Section 15-5. Private right enforcement. A service member may bring a private civil action for enforcement of a violation of this Act. A violation of Section 5-20 may not be a sole basis for a civil action under this Act.

Section 15-10. Circuit court actions by the Attorney General.

(a) If the Attorney General has reasonable cause to believe that any employer is engaged in a violation of this Act, then the Attorney General may commence a civil action in the name of the People of the State, as *parens patriae* on behalf of persons within the State to enforce the provisions of this Act in any appropriate circuit court.

(b) Prior to initiating a civil action, the Attorney General shall conduct a preliminary investigation to determine whether there is reasonable cause to believe that any employer is engaged in a violation of this Act and whether the dispute can be resolved without litigation. In conducting this investigation, the Attorney General may:

(1) require the individual or entity to file a statement or report in writing under oath or otherwise, as

to all information the Attorney General may consider necessary;

(2) examine under oath any person alleged to have participated in or with knowledge of the alleged violation; or

(3) issue subpoenas or conduct hearings in aid of any investigation.

(c) Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made:

(1) personally by delivery of a duly executed copy thereof to the person to be served or, if a person is not a natural person, in the manner provided by the Civil Procedure law when a complaint is filed; or

(2) by mailing by certified mail a duly executed copy thereof to the person to be served at his last known abode or principal place of business within this State.

(d) In lieu of a civil action, the individual or entity alleged to have violated this Act may enter into an Assurance of Voluntary Compliance with respect to the alleged violation.

(e) Whenever any person fails to comply with any subpoena issued under this Section or whenever satisfactory copying or reproduction of any material requested in an investigation cannot be done and the person refuses to surrender the material, the Attorney General may file in any appropriate circuit court, and serve upon the person, a petition for a

court order for the enforcement of the subpoena or other request.

Any person who has received a subpoena issued under subsection (b) may file in the appropriate circuit court, and serve upon the Attorney General, a petition for a court order to modify or set aside the subpoena or other request. The petition must be filed either: (1) within 20 days after the date of service of the subpoena or at any time before the return date specified in the subpoena, whichever date is earlier, or (2) within a longer period as may be prescribed in writing by the Attorney General.

The petition shall specify each ground upon which the petitioner relies in seeking relief under this subsection and may be based upon any failure of the subpoena to comply with the provisions of this Section or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the subpoena or other request, in whole or in part, except that the petitioner shall comply with any portion of the subpoena or other request not sought to be modified or set aside.

Section 15-20. Remedies.

(a) A court in its discretion may award actual damages or any other relief that the court deems proper.

Punitive damages are not authorized except in cases involving violations under Section 5-15 and may not exceed \$50,000 per violation.

Reasonable attorney's fees may be awarded to the prevailing party, however, prevailing defendants may only receive attorney's fees if the court makes a finding that the plaintiff acted in bad faith.

(b) The Attorney General may bring an action in the name of the People of the State against any employer to restrain by preliminary or permanent injunction the use of any practice that violates this Act. In such an action, the court may award restitution to a service member. In addition, the court may assess a civil penalty not to exceed \$5,000 per violation of this Act.

If a court orders a party to make payments to the Attorney General and the payments are to be used for the operations of the Office of the Attorney General or a party agrees, in an Assurance of Voluntary Compliance under this Act, to make payment to the Attorney General for the operations of the Office of the Attorney General, then moneys shall be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund. Moneys in the Fund shall be used, subject to appropriation, for the performance of any function pertaining to the exercise of the duties of the Attorney General including, but not limited to, enforcement of any law of this State and conducting public education programs;

however, any moneys in the Fund that are required by the court or by an agreement to be used for a particular purpose shall be used for that purpose.

In any action brought under the provisions of this Act, the Attorney General is entitled to recover costs.

Article 20. Home Rule.

Section 20-5. Home Rule. A home rule unit may not regulate its employees in a manner that is inconsistent with the regulation of employees by the State under this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Article 25. Statute of Limitations.

Section 25-5. Inapplicability of Statute of Limitations. No statute of limitations applies to any private right or Attorney General action under this Act.

Article 30. Illinois Service Member Employment and
Reemployment Rights Act Advocate.

Section 30-5. ISERRA Advocate.

(a) The Attorney General shall appoint an Illinois Service Member Employment and Reemployment Rights Act Advocate and provide staff as are deemed necessary by the Attorney General for the Advocate. The ISERRA Advocate shall be an attorney licensed to practice in Illinois.

(b) Through the ISERRA Advocate, the Attorney General shall have the power:

(1) to establish and make available a program to provide training to employers and service members;

(2) to prepare and make available interpretative and educational materials and programs;

(3) to respond to informal inquiries made by members of the public and public bodies;

(4) to prepare and make available required Service Member Employment and Reemployment Rights Act notice to employers;

(5) to investigate allegations of violations of this Act on behalf of the Attorney General; and

(6) to prepare an annual report on this Act for the Attorney General.

Article 35. Rulemaking.

Section 35-5. Rules. To accomplish the objectives and to carry out the duties prescribed by this Act, the Attorney General may adopt the rules necessary to implement this Act.

Article 40. Coverage Under Special Circumstances.

Section 40-5. Governor's election. In a time of national or State emergency, the Governor has the authority to designate any category of persons as entitled to protections under this Act.

Article 90. Amendatory Provisions.

(5 ILCS 325/Act rep.)

Section 90-5. The Military Leave of Absence Act is repealed.

(5 ILCS 330/Act rep.)

Section 90-10. The Public Employee Armed Services Rights Act is repealed.

Section 90-15. The Military Code of Illinois is amended by changing the heading of Article V-A as follows:

(20 ILCS 1805/Art. V-A heading)

ARTICLE V-A. NATIONAL GUARD SUPPLEMENTAL ~~EMPLOYMENT~~ RIGHTS

(20 ILCS 1805/22-10 rep.)

(20 ILCS 1805/30.1 rep.)

(20 ILCS 1805/30.5 rep.)

(20 ILCS 1805/30.10 rep.)

(20 ILCS 1805/30.20 rep.)

(20 ILCS 1805/30.15 rep.)

Section 90-20. The Military Code of Illinois is amended by repealing Sections 22-10, 30.1, 30.5, 30.10, 30.20, and 30.15.

(20 ILCS 1815/79 rep.)

Section 90-25. The State Guard Act is amended by repealing Section 79.

(50 ILCS 120/Act rep.)

Section 90-30. The Municipal Employees Military Active Duty Act is repealed.

(50 ILCS 140/Act rep.)

Section 90-35. The Local Government Employees Benefits Continuation Act is repealed.

Section 90-40. The Metropolitan Transit Authority Act is amended by changing Section 29 as follows:

(70 ILCS 3605/29) (from Ch. 111 2/3, par. 329)

Sec. 29. If the Authority acquires a transportation system in operation by a public utility, all of the employees in the operating and maintenance divisions of such public utility and

all other employees except executive and administrative officers and employees, shall be transferred to and appointed as employees of the Authority, subject to all rights and benefits of this Act, and these employees shall be given seniority credit in accordance with the records and labor agreements of the public utility. Employees who left the employ of such a public utility to enter the military service of the United States shall have the same rights as to the Authority, under the provisions of the Service Member Employment and Reemployment Rights Act ~~Service Member's Employment Tenure Act~~ as they would have had thereunder as to such public utility. After such acquisition the authority shall be required to extend to such former employees of such public utility only the rights and benefits as to pensions and retirement as are accorded other employees of the Authority.

(Source: P.A. 93-828, eff. 7-28-04.)

Section 90-45. The Local Mass Transit District Act is amended by changing Section 3.5 as follows:

(70 ILCS 3610/3.5) (from Ch. 111 2/3, par. 353.5)

Sec. 3.5. If the district acquires a mass transit facility, all of the employees in such mass transit facility shall be transferred to and appointed as employees of the district, subject to all rights and benefits of this Act, and these employees shall be given seniority credit in accordance with

the records and labor agreements of the mass transit facility. Employees who left the employ of such a mass transit facility to enter the military service of the United States shall have the same rights as to the district, under the provisions of the Service Member Employment and Reemployment Rights, Act ~~Service Member's Employment Tenure Act~~ as they would have had thereunder as to such mass transit facility. After such acquisition the district shall be required to extend to such former employees of such mass transit facility only the rights and benefits as to pensions and retirement as are accorded other employees of the district.

(Source: P.A. 93-590, eff. 1-1-04; 93-828, eff. 7-28-04.)

Section 90-50. The Service Member's Employment Tenure Act is amended by changing Sections 1, 2, and 3 as follows:

(330 ILCS 60/1) (from Ch. 126 1/2, par. 29)

Sec. 1. Short title. This Act may be cited as the Service Member's ~~Employment~~ Tenure Act.

(Source: P.A. 93-828, eff. 7-28-04.)

(330 ILCS 60/2) (from Ch. 126 1/2, par. 30)

Sec. 2. As a guide to the interpretation and application of this Act, the public policy of the State is declared as follows:

As a constituent commonwealth of the United States of

America, the State of Illinois is dedicated to the urgent task of strengthening and expediting the national defense under the emergent conditions which are threatening the peace and security of this nation. It is the considered judgment of the General Assembly that the service members ~~wage earners~~ of Illinois who respond to their country's call to service in this time of crisis, are deserving of every protection ~~of their employment status which~~ the law may afford, and that repetition of the regrettable experience existing after the great war of 1917-1918, wherein returning service men were subjected to serious discrimination with regard to tenure and other rights ~~of employment~~, must be avoided, since any form of economic discrimination against returning service men is a serious menace to the entire social fabric of the United States of America and the State of Illinois.

~~By safeguarding the employment and the rights and privileges inhering in the employment contract, of service men, the State of Illinois encourages its workers to participate to the fullest extent in the national defense program and thereby heightens the contribution of our State to the protection of our heritage of liberty and democracy.~~

(Source: Laws 1941, vol. 1, p. 1202.)

(330 ILCS 60/3) (from Ch. 126 1/2, par. 31)

Sec. 3. Definitions. The term "persons in the military service", as used in this Act, shall include the following

persons and no others: All members of the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard and all members of the State Militia called into the service or training of the United States of America or of this State. The term "military service", as used in this Act, shall signify Federal service or active duty with any branch of service heretofore referred to as well as training or education under the supervision of the United States preliminary to induction into the military service. The term "military service" also includes any period of active duty with the State of Illinois pursuant to the orders of the President of the United States or the Governor. The term "military service" also includes any period of active duty by members of the National Guard who are called to active duty pursuant to an order of the Governor of this State or an order of a governor of any other state as provided by law. The term "military service" also includes the full-time duties of the Adjutant General and Assistant Adjutants General under Section 17 of the Military Code of Illinois.

The foregoing definitions shall apply both to voluntary enlistment and to induction into service by draft or conscription.

~~The term "political subdivision", as used in this Act, means any unit of local government or school district.~~

(Source: P.A. 99-88, eff. 7-21-15; 99-557, eff. 1-1-17.)

(330 ILCS 60/4 rep.)

(330 ILCS 60/4.5 rep.)

(330 ILCS 60/5 rep.)

(330 ILCS 60/6 rep.)

(330 ILCS 60/7 rep.)

(330 ILCS 60/8 rep.)

Section 90-55. The Service Member's Employment Tenure Act is amended by repealing Sections 4, 4.5, 5, 6, 7, and 8.

Section 90-60. The Illinois Service Member Civil Relief Act is amended by changing Section 10 as follows:

(330 ILCS 63/10)

Sec. 10. Definitions. In this Act:

"Military service" means any full-time training or duty, no matter how described under federal or State law, for which a service member is ordered to report by the President, Governor of a state, commonwealth, or territory of the United States, or other appropriate military authority.

"Primary occupant" means the current residential customer of record in whose name the utility company or electric cooperative account is registered.

"Service member" means a resident of Illinois who is a member of any component of the U.S. Armed Forces or the National Guard of any state, the District of Columbia, a commonwealth, or a territory of the United States.

"State Active Duty" has the same meaning ascribed to that term in Section 1-10 of the Service Member Employment and Reemployment Rights Act ~~30.10 of the Military Code of Illinois.~~

"Training or duty under Title 32 of the United States Code" has the same meaning ascribed to that term in Section 30.10 of the Military Code of Illinois.

(Source: P.A. 97-913, eff. 1-1-13.)

Section 90-65. The Criminal Code of 2012 is amended by changing Section 17-6 as follows:

(720 ILCS 5/17-6) (from Ch. 38, par. 17-6)

Sec. 17-6. State benefits fraud.

(a) A person commits State benefits fraud when he or she obtains or attempts to obtain money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof through the knowing use of false identification documents or through the knowing misrepresentation of his or her age, place of residence, number of dependents, marital or family status, employment status, financial status, or any other material fact upon which his eligibility for or degree of participation in any benefit program might be based.

(b) Notwithstanding any provision of State law to the contrary, every application or other document submitted to an

agency or department of the State of Illinois or any political subdivision thereof to establish or determine eligibility for money or benefits from the State of Illinois or from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof, shall be made available upon request to any law enforcement agency for use in the investigation or prosecution of State benefits fraud or for use in the investigation or prosecution of any other crime arising out of the same transaction or occurrence. Except as otherwise permitted by law, information disclosed pursuant to this subsection shall be used and disclosed only for the purposes provided herein. The provisions of this Section shall be operative only to the extent that they do not conflict with any federal law or regulation governing federal grants to this State.

(c) Any employee of the State of Illinois or any agency or political subdivision thereof may seize as evidence any false or fraudulent document presented to him or her in connection with an application for or receipt of money or benefits from the State of Illinois, from any political subdivision thereof, or from any program funded or administered in whole or in part by the State of Illinois or any political subdivision thereof.

(d) Sentence.

(1) State benefits fraud is a Class 4 felony except when more than \$300 is obtained, in which case State benefits fraud

is a Class 3 felony.

(2) If a person knowingly misrepresents oneself as a veteran or as a dependent of a veteran with the intent of obtaining benefits or privileges provided by the State or its political subdivisions to veterans or their dependents, then State benefits fraud is a Class 3 felony when \$300 or less is obtained and a Class 2 felony when more than \$300 is obtained. For the purposes of this paragraph (2), benefits and privileges include, but are not limited to, those benefits and privileges available under the Veterans' Employment Act, the Viet Nam Veterans Compensation Act, the Prisoner of War Bonus Act, the War Bonus Extension Act, the Military Veterans Assistance Act, the Veterans' Employment Representative Act, the Veterans Preference Act, Service Member Employment and Reemployment Rights Act, the Service Member's ~~Employment~~ Tenure Act, the Housing for Veterans with Disabilities Act, the Under Age Veterans Benefits Act, the Survivors Compensation Act, the Children of Deceased Veterans Act, the Veterans Burial Places Act, the Higher Education Student Assistance Act, or any other loans, assistance in employment, monetary payments, or tax exemptions offered by the State or its political subdivisions for veterans or their dependents.

(Source: P.A. 99-143, eff. 7-27-15.)

Section 90-70. The Illinois Human Rights Act is amended by changing Section 6-102 as follows:

(775 ILCS 5/6-102)

Sec. 6-102. Violations of other Acts. A person who violates the ~~Military Leave of Absence Act, the Public Employee Armed Services Rights Act,~~ Section 11-117-12.2 of the Illinois Municipal Code, Section 224.05 of the Illinois Insurance Code, Section 8-201.5 of the Public Utilities Act, Sections 2-1401.1, 9-107.10, 9-107.11, and 15-1501.6 of the Code of Civil Procedure, Section 4.05 of the Interest Act, the Military Personnel Cellular Phone Contract Termination Act, Section 405-272 of the Civil Administrative Code of Illinois, Section 10-63 of the Illinois Administrative Procedure Act, Sections 30.25 and 30.30 of the Military Code of Illinois, Section 16 of the Landlord and Tenant Act, Section 26.5 of the Retail Installment Sales Act, or Section 37 of the Motor Vehicle Leasing Act commits a civil rights violation within the meaning of this Act.

(Source: P.A. 97-913, eff. 1-1-13.)