



Key Message

To supplement employment protections under federal law, states can add military family status as a class protected in state education, housing, public utilities and civil rights laws.

Analysis

Military service members and their families may encounter bias and discrimination in employment, housing and in public accommodations, such as stores, restaurants and cabs, due to their military status. States have defined military or veteran status as a protected class to provide the opportunity to seek, obtain and hold employment and housing.

Best Practices

1. Protecting families from discrimination in public accommodations, employment and housing on the basis of a person's military status:

Military status should be uniformly added to the list of protected classes across all anti-discrimination statutes in the state.

EXAMPLE:

Virginia House Bill 2161 (Chapter 477 of 2021)

<https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0477>

It is the policy of the Commonwealth to:

"1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, *military status as a veteran*, or disability in places of public accommodation, including educational institutions and in real estate transactions;

2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability or *military status as a veteran*;"

"'Military status' means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a) (5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50."



2. Prohibiting anyone selling or renting a dwelling from refusing to negotiate with or discriminating against individuals based on military status:

EXAMPLE:

Colorado House Bill 22-1102 (Acts of 2022)

<http://leg.colorado.gov/bills/hb22-1102>

"This act forbids anyone selling or renting a dwelling from discriminating against an individual based on their veteran or military status. The act forbids anyone from refusing to negotiate for housing with an individual on the basis of their veteran or military status or otherwise denying or withholding housing on the basis of an individual's veteran or military status. For purposes of the act, an individual who was dishonorably discharged from military service does not have veteran or military status."

"(7) 'Veteran or military status' means a member or veteran of the United States Armed Forces, United States Armed Forces reserve, or United States National Guard. 'Veteran or military status' does not include an individual who was dishonorably discharged from military service."

3. Providing state-level USERRA protections for public employees:

Public employees are not protected by the federal Uniformed Services Employment and Reemployment Rights Act. State statutes that cover members of the reserve and Guard component during mobilizations from employment discrimination rarely extend to the public sector.

EXAMPLE:

New York Assembly Bill 1428-B (Chapter 152 of 2011)

<https://www.nysenate.gov/legislation/bills/2011/A1428>

"10-b. If a public employer consolidates, abolishes, displaces, or demotes a position, in accordance with section eighty, eighty-a or eighty-five of the civil service law, which is occupied by a public employee currently on active duty with the armed forces of the United States, as pursuant to Title ten, fourteen or thirty-two of the United States code, such employer shall comply with subdivisions eleven and twelve of this section and, upon the termination of the public employee's active duty, as defined in Title ten, fourteen or thirty-two of the United States code, such public employer shall provide full re-employment rights warranted to such employee under the federal uniformed services employment and reemployment rights act of 1994, provided, however, the right of reemployment under this subdivision does not entitle such employee to displacement rights over any person with greater seniority. Such public employer shall not abolish any position or positions solely based upon the fact that the position or positions are currently filled by an individual or individuals engaged in military duty."



4. Protecting families from discrimination in employment and housing on the basis of a person's service in the reserve or National Guard component:

EXAMPLE:

Indiana House Bill 1242 (Public Law 136 of 2014)

<https://www.in.gov/icrc/files/HB1242.04.ENRH.pdf>

“(f) It is against the public policy of the state and a discriminatory practice for an employer to discriminate against a prospective employee on the basis of status as a veteran by:

(1) refusing to employ an applicant for employment on the basis that the applicant is a veteran of the armed forces of the United States; or

(2) refusing to employ an applicant for employment on the basis that the applicant is a member of the Indiana National Guard or member of a reserve component.

(f) (g) This chapter shall be construed broadly to effectuate its purpose.”

5. Protecting military-connected students from discrimination in public schools:

While most active-duty family respondents to the 2019 Military Family Lifestyle Survey reported positive school experiences for their children regardless of their race or ethnicity, parents of students with special needs still report ongoing challenges with accessing the equal opportunity protections afforded under federal law. A 2022 poll from the Modern Military Association of America indicated more than half of military families with LGBTQ children altered their planned military service by declining orders, requesting transfers or retiring early.

EXAMPLE:

Washington House Bill 3026 (Chapter 240 of 2010)

<https://lawfilesext.leg.wa.gov/biennium/2009-10/Pdf/Bills/Session%20Laws/House/3026-S2.SL.pdf?q=20221203054136>

“Section 2. Discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, including gender expression or identity, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability is prohibited. The definitions given these terms in chapter 49.60 RCW apply throughout this chapter unless the context clearly requires otherwise.”



6. Prohibiting a rental agreement where a tenant must have protections under the Servicemembers' Civil Relief Act prior to the occurrence of a dispute between the landlord and the tenant:

EXAMPLE:

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A rental agreement shall not contain provisions that the tenant:

"8. Agrees to waive remedies or rights under the Servicemembers' Civil Relief Act, 50 U.S.C. § 3901 et seq., prior to the occurrence of a dispute between landlord and tenant. Execution of leases shall not be contingent upon the execution of a waiver of rights under the Servicemembers Civil Relief Act; however, upon the occurrence of any dispute, the landlord and tenant may execute a waiver of such rights and remedies as to that dispute in order to facilitate a resolution."