

**HB**

**307**

<TARGET><BILL>HB 307</BILL><SUBJECT>HB  
307</SUBJECT><COMM>HMLV30</COMM></TARGET>



# Representative Chris Tuck

## House Majority Leader

Serving House District 23 • Dimond Estates, Foxridge, Taku, Campbell, Northwood, and Windemere

### House Bill 307 Military Justice and Militia Civil Relief Sponsor Statement

In an effort to continue to modernize and update the Alaska Military Code, House Bill 307 provides statutory changes to incorporate recent updates from the Federal Uniform Code of Military Justice (UCMJ) and Servicemembers Civil Relief Act (SCRA).

In 2016, Alaska's military command worked with the legislature to pass the Alaska Code of Military Justice (ACMJ) to provide greater ability to pursue and prosecute those service-members who violate military rules and protocols. House Bill 307 is a continuation of those efforts.

House Bill 307 would update crimes recognized by the UCMJ, establish a procedure within the code of military justice for a service member who commits a sexual offense to register as a sex offender or child kidnapper, update offenses that are subject to court-martial proceedings and update consumer protections for service members.

In close and continuing consultation with the Department of Military and Veterans Affairs, we are continuing our efforts to guaranteeing the safety of Alaskans and the security of our law-enforcement procedures.

Updating the ACMJ regularly is a critical response to the always-evolving military justice system, and vital to maintaining good order and discipline in the Alaska Organized Militia, so it is timely and necessary that we pass HB 307. I urge your support of this legislation.

Session (January-April):  
State Capitol, Room 204  
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## House Majority Leader

Serving House District 23 • Dimond Estates, Foxridge, Taku, Campbell, Northwood, and Windemere

### House Bill 307 Military Justice and Militia Civil Relief Sectional Analysis

**Section 1.** Amends AS 12.63.100(1) to include within the definition of aggravated sexual offense an offense under AS 26.05.890 if the person engaged in or attempted to engage in sexual penetration and an offense under AS 26.05.893 if the prohibited sexual activity in which the militia member engaged or attempted to engage is sexual penetration.

**Section 2.** Amends AS 12.63.100(2) to include within the definition of child kidnapping an offense, attempt, solicitation, or conspiracy to commit an offense under AS 26.05.935(b) if the member of the militia commits an enumerated offense of kidnapping punishable under Article 134 of the Uniform Code of Military Justice (UCMJ) and the victim was under 18 years of age at the time of the offense.

**Section 3.** Amends AS 12.63.100(6) to include within the definition of sex offense indecent exposure under AS 26.05.900(c) and other qualifying conviction under AS 26.05.890 and 26.05.893 as specified.

**Section 4.** Amends AS 12.63.100 by adding new paragraphs that define "sexual contact" and "sexual penetration" to have the same meaning as given these terms in AS 11.81.900.

**Section 5.** Amends AS 18.65.087(a) to include a court judgment that the Department of Public Safety receives from the Department of Military and Veterans Affairs for convictions under AS 26.05.890(h), 26.05.893(d), 26.05.900(e), or 26.05.935(d) as information for the sexual offender registry.

**Section 6.** Amends AS 26.05.135 to extend the benefits of the Servicemembers Civil Relief Act, especially those pertaining to consumer transactions, to all members of the Alaska Organized Militia (AOM), i.e., the Alaska Army National Guard, the Alaska Air National Guard, the Alaska Naval Militia, and the Alaska State Defense Force.

**Section 7.** Amends AS 26.05.135 by adding new subsections: (b) allowing Servicemembers to terminate of certain contracts for consumer services if ordered to relocate; (c) directing that Servicemembers must furnish service providers with written notice of contract termination and written proof of relocation orders; (d) allowing Servicemembers to reinstate terminated contracts upon separation from the AOM; (e) prohibiting service providers from charging a Servicemember for terminating a contract and releasing Servicemembers from any payment obligation after the termination; and (f) defining militia members as members of the AOM, and

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the organized militia as including the Alaska (Army and Air) National Guard, Alaska Naval Militia, and Alaska State Defense Force.

**Section 8.** Amends AS 26.05.380 (b) by striking language reserving Servicemembers' ability to reject non-judicial punishment and opt instead for court-martial, essentially restoring the "no turn-down" clause proposed in the original ACMJ update of 2015-16.

**Section 9.** Amends AS 26.05.555 to reflect additional language in the amended Rules for Courts-Martial 201 (c) that provides judges may hold a person in contempt of court for willfully disobeying a court-martial order or creating a disturbance during proceedings.

**Section 10.** Amends AS 26.05 to add a new section AS 26.05.697 making failing to reveal or concealing from authorities serious offenses committed by others offenses, and militia members committing these offenses subject to punishment as courts-martial may direct.

**Section 11.** Amends AS 26.05.700 to allow an accused to be found guilty of lesser offenses necessarily included in offenses charged or of attempts to commit either, regarding offenses designated by the President in an appendix to the 2017 Manual for Courts-Martial.

**Section 12.** Amends AS 26.05.715 to add a new subsection (c) prohibiting a member of the militia from soliciting or advising another person to commit an offense under this chapter, and making militia members committing such offenses subject to punishment as courts-martial may direct.

**Section 13.** Amends AS 26.05 by adding new section AS 26.05.737 prohibiting militia members from wrongfully manipulating, creating, using, selling, or otherwise falsifying official identifications, passes, permits, or certificates and making militia members committing these offenses subject to punishment as courts-martial may direct.

**Section 14.** Amends AS 26.05.740 to specify intentionally or wrongfully jumping into the water from a vessel in use by the armed forces so as to miss a transportation movement required by duty is an offense and a militia member committing such an offense is subject to punishment as a court-martial may direct.

**Section 15.** Amends AS 26.05 by adding new section AS 26.05.767 describing impersonation of officers, non-commissioned officers, petty officers, agents, or officials, and AS 26.05.768 designating wearing unauthorized insignias, decorations, badges, ribbons, devices, or lapel buttons as offenses, and militia members committing these offenses are subject to punishment as courts-martial may direct.

**Section 16.** Amends AS 26.05 by adding new section AS 26.05.785 designating a militia member who engages in inappropriate release of a prisoner or unlawfully drinking an alcoholic beverage with a prisoner is subject to punishment as a court-martial may direct.

**Section 17.** Amends AS 26.05 by adding new section AS 26.05.793 making wrongful interference with an adverse administrative proceeding an offense, and a militia member committing such an offense subject to punishment as a court-martial may direct.

**Section 18.** Amends AS 26.05 by adding new section AS 26.05.7963 designating a militia member engaging in wrongful refusal to testify to an official military proceeding as subject to punishment as a

**Section 19.** Amends AS 26.05 by adding new section AS 26.05.833 prohibiting certain offenses against correctional custody and restriction, including escape and exceeding the limits of physical restriction, and making militia members committing such offenses subject to punishment as courts-martial may direct.

**Section 20.** Amends AS 26.05.835 to add a new subsection (b) providing a militia member violating or falsely making an official oath is subject to punishment as a court-martial may direct.

**Section 21.** Amends AS 26.05.860 changing the offense of “Drunk on Duty” to “Drunkenness And Other Incapacitation” offenses to include incapacitation due to indulgence in any alcoholic beverage or any drug, and making militia members who commit such offenses subject to punishment as courts-martial may direct.

**Section 22.** Amends AS 26.05.860 by adding new subsection (b) directing a member of the militia, while in status as a prisoner is drunk, shall be punished as a court-martial may direct.

**Section 23.** Amends AS 26.05.865 to include sentinels loitering or wrongfully sitting down on duty as subject to punishment as courts-martial may direct.

**Section 24.** Amends AS 26.05 by adding new section AS 26.05.867 directing militia members engaged in improper behavior toward a sentinel or lookout are subject to punishment as courts-martial may direct.

**Section 25.** Amends AS 26.05.890(a) to enumerate the offenses for which militia members would be guilty of sexual assault and subject to punishment as courts-martial may direct.

**Section 26.** Amends AS 26.05.890 by adding new subsections (g) defining when court-martial convening authorities may reduce, commute, or suspend sentences imposed by court-martial for offenses of sexual assault, and (h) requiring courts-martial to provide offenders convicted of sexual assault with information regarding sex offender registration under AS 12.63.010.

**Section 27.** Amends AS 26.05 by adding new section AS 26.05.893 describing prohibited activities between militia members in positions of special trust and military recruits, trainees, and subordinates, and prescribing such offenses are subject to punishment as courts-martial may direct. AS 26.05.893 specifies consent is not a defense for any conduct at issue in a prosecution under this statute.

**Section 28.** Amends AS 26.05 by adding new section AS 26.05.897 defining the offenses of assault and aggravated assault, and specifying militia members committing these offenses are subject to punishment as courts-martial may direct.

**Section 29.** Amends AS 26.05.900(a) to include broadcasting and distribution of indecent recordings as described in this section as offenses for which militia members would be subject to punishment as courts-martial may direct.

**Section 30.** Amends AS 26.05.900(d) by adding a new paragraph defining “recording” as that contained in the 2016 Amendment to article 120c of the UCMJ, “a still or moving visual image captured or recorded by any means,” and “without the other person’s consent” as having the same meaning as given to “without consent” in AS 11.41.470.

**Section 31.** Amends AS 26.05.900 by adding new section (e) requiring courts-martial to provide offenders convicted of sexual assault with information regarding sex offender registration under AS 12.63.010.

**Section 32.** Amends AS 26.05 by adding new section AS 26.05.913 making militia members engaged in willfully and unlawfully manipulating public records with ill intent subject to punishment as courts-martial may direct.

**Section 33.** Amends AS 26.05.935 by adding new subsection (d) requiring offenders convicted of enumerated offenses under (b) of this section to register as sex offenders under AS 12.63, and requiring courts-martial to provide offenders with information regarding sex offender registration.

**Section 34.** Amends AS 26.05 by adding new sections AS 26.05.940 prohibiting willful and intentional misuse of government computers, programs, codes, and data, and AS 26.05.945 prohibiting knowing and willful violation of the limits of a medical quarantine, and making militia members engaged in such offenses subject to punishment as a court-martial may direct.

**Section 35.** Amends the uncodified law of the State of Alaska to reconcile the generally equivalent military and civilian offenses, and specify the dates the new measures above will apply to cases involving these offenses.

**Section 36.** Amends the uncodified law of the State of Alaska to allow this Act to take effect only after The Adjutant General (TAG) notifies the revisor of statutes on or before 1 January 2019 the President of the United States has signed an Executive Order designating the effective date, under the National Defense Authorization Act, of the amendments to the UCMJ made by the Military Justice Act of 2016.

**Section 37.** Amends the uncodified law of the State of Alaska to allow Sections 1-5, 8-34, and 35 (b)-(d) of this Act to take effect only if TAG notifies the revisor of statutes as prescribed in Section 36 above.

**Section 38.** Specifies if Sections 1-5, 8-34, and 35 (b)-(d) of this Act take effect under Section 37 above, they take effect 1 January 2019.

**Section 39.** Establishes 1 July 2018 as this Act’s effective date, except as provided in Section 38 above.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HB 307  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB307-DPS-SWITS-01-28-18  
Title: MILITARY JUSTICE & MILITIA CIVIL RELIEF  
Sponsor: TUCK  
Requester: (H) MLV

Department: Department of Public Safety  
Appropriation: Statewide Support  
Allocation: Statewide Information Technology Services  
OMB Component Number: 3050

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

Not applicable, initial version.

Prepared By:	Kelly Howell, Administrative Services Director	Phone:	(907)465-4336
Division:	Administrative Services	Date:	01/28/2018
Approved By:	Walt Monegan, Commissioner	Date:	01/28/18
Agency:	Department of Public Safety		

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2018 LEGISLATIVE SESSION**

**BILL NO. HB 307**

**Analysis**

This bill would require a person who commits certain offenses under the code of military justice to register as a sex offender or child kidnapper under AS 12.63.

The Department of Public Safety (DPS) is responsible to maintain the registry of sex offenders and child kidnappers in Alaska. A person is required to register as a sex offender or child kidnapper in Alaska if they are convicted of an offense listed under AS 12.63.100 or a similar offense in another jurisdiction.

Assuming the offenses that would require registration under the code of military justice are similar to offenses already requiring registration under AS 12.63.100, there would be no significant fiscal impact to DPS and a zero fiscal note is appropriate. However, this fiscal note may need to be adjusted if it is determined the offenses requiring registration under the code of military justice are not similar to offenses already listed under AS 12.63.100.

# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HB 307  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB307-MVA-COM-1-26-18  
Title: MILITARY JUSTICE & MILITIA CIVIL RELIEF  
Sponsor: TUCK  
Requester: House Military and Veterans' Affairs

Department: Department of Military and Veterans' Affairs  
Appropriation: Military and Veterans' Affairs  
Allocation: Office of the Commissioner  
OMB Component Number: 414

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
<b>OPERATING EXPENDITURES</b>	<b>FY 2019</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version/comments:**

Not Applicable, initial version.

Prepared By: Brian Duffy  
Division: Administrative Services  
Approved By: Laurel J. Hummel  
Agency: Office of the Commissioner

Phone: (907)428-7210  
Date: 01/26/2018 12:02 PM  
Date: 01/26/18

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2018 LEGISLATIVE SESSION**

**BILL NO. HB307**

**Analysis**

This bill will have no impact on the employees and services provided by the Department. We expect no increase in paperwork or record keeping associated with the passage of this bill. Therefore, the Department of Military and Veterans' Affairs is submitting a zero fiscal note.



## STATE ENHANCEMENTS TO THE SERVICE MEMBER'S CIVIL RELIEF ACT (SCRA)

*As a result of military duty, Service members can have unintended consumer concerns for which they can be protected through state consumer protection policies.*

**KEY MESSAGE:** Service members are protected as consumers through the federal SCRA; however, these protections do not extend to members of the National Guard under state activation, or protect Service members concerning obligations that occur while on active duty. States can provide additional consumer protections that can mirror and extend the federal SCRA.



### DISCUSSION POINTS:

- The 2003 federal SCRA generally provided protections associated with obligations made prior to Federal activation, and generally covered stays of some court proceedings; protection from default judgements, evictions, foreclosures and loss of insurance coverage; and limited certain taxes and obligations made before entering active duty.
- Updates to the SCRA since 2003 extended it to cover residential leases, motor vehicle leases and telephone service contracts entered while on active duty, in order to provide relief to Service members when they deploy or assigned overseas, or in some circumstances where they have a permanent change of station. Other changes have also provided remedies and civil enforcement by the U.S. Attorney General.
- Many states have applied several of the protections found in the federal SCRA to members of the National Guard under state activation; however, these protections vary widely. Some states have extended their consumer protections beyond what is included in the federal SCRA through state statutes, and applied these additional protections to Service members on federal active duty as well as state activations.
- DoD recognizes that states need to develop protections that make sense within the context of their consumer protection laws. DoD requests states consider protections:
  - Applicable to obligations made while on active duty for members of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, Public Health Services and National Oceanic and Atmospheric Administration);<sup>1</sup>
  - Applicable to a contract to provide telecommunication services, internet services, television services, athletic club or gym memberships, or satellite radio services;<sup>1</sup>
  - Applicable as well to certain residential lease/rental agreements due to moves into government owned/leased housing.

Title VIII of the SCRA provides authority to state attorneys general to enforce the provisions of the federal SCRA (Section 801 – 50 U.S.C. §597). In February 2012, the federal government and 49 state attorneys general reached an unprecedented joint agreement of \$25 Billion with the nation's five largest mortgage servicers to address mortgage loan servicing and foreclosure abuses.

<sup>1</sup> Protections approved as part of Indiana House Bill 1564, 2015



## STATE ENHANCEMENTS TO THE SERVICE MEMBER'S CIVIL RELIEF ACT (SCRA)

**SUBJECT:** Service members are protected as consumers through the federal SCRA; however, the federal law does not protect Service members concerning obligations that occur while on active duty. States can provide additional consumer protections that can mirror and expand the federal SCRA.

**PRINCIPLES:** DoD recognizes that states need to develop protections that make sense within the context of their consumer protection laws. DoD requests states consider protections:

- Applicable to active duty for members of the Uniformed Services, (which parallels members covered by the federal SCRA: Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, Public Health Services and National Oceanic and Atmospheric Administration);
- Applicable to a contract to provide telecommunication services, internet services, television services, athletic club or gym memberships, or satellite radio services;
- Applicable as well to certain residential lease/rental agreements due to moves into government owned/leased housing.

### EXAMPLES:

**INDIANA HB 1456 (2015):** SECTION 4. IC 10-16-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 20. Servicemembers Civil Relief Act

Sec. 1. A violation of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is a violation of this chapter. This chapter is intended to supplement rights and protections provided in the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

Sec. 2. The following definitions apply throughout this chapter:

(1) "Military service" means:

(A) in the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) full-time training duty;

(ii) annual training duty; and

(iii) attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(B) in the case of a member or reserve member of the Indiana National Guard, service under a call to active:

(i) service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) days in response to a national emergency declared by the President of the United States; or

(ii) duty as defined by IC 10-16-7-23(a) for a period of more than thirty (30) consecutive days;

(C) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(D) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) "Servicemember" means an individual engaged in military service.

Sec. 3. After giving notice to a plaintiff, as applicable, the dependent of a servicemember has the same rights and protections provided to a servicemember under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 521 through 527).

Sec. 4. (a) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included in Title III of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 531 through 538), a servicemember may terminate a contract described in subsection (b) at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety (90) days to a location that does not support the contract.

(b) This section applies to a contract to provide any of the following:

- (1) Telecommunication services.
- (2) Internet services.
- (3) Television services.
- (4) Athletic club or gym memberships.
- (5) Satellite radio services.

(c) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider. If a servicemember terminates a contract, the service provider shall provide the servicemember with a written or electronic notice of the servicemember's rights posted on the Indiana National Guard's Internet web site as required by IC 10-16-6-13.

**OREGON 2083 (2013):** SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 399.

SECTION 2. (1) As used in this section, "service member" means:

(a) A member of the organized militia who is called into active service of the state by the Governor under ORS 399.065 (1) for 30 or more consecutive days.

(b) A member of the Armed Forces of the United States, as that term is defined in ORS 348.282, who is called into active federal service under Title 10 of the United States Code.

(2)(a) Except as provided in subsection (6) of this section, a service member who has obtained the following services from a telecommunications service provider, an Internet service provider, a health club as defined in ORS 431.680, a health spa as defined in ORS 646A.030 or a provider of television services may terminate or suspend the provision of services upon written notice and as provided in paragraph (b) of this subsection:

- (A) Telecommunications services.
- (B) Internet services.
- (C) Health spa services as defined in ORS 646A.030.
- (D) Exercise or athletic activities offered by a health club.
- (E) Television services, including but not limited to cable television, direct satellite and other television-like services.

(b) The service member must provide proof to the service provider of the official orders showing that the service member has been called into active service:

- (A) At the time written notice is given; or
- (B) If precluded by military necessity or circumstances that make the provision of proof at the time of giving written notice unreasonable or impossible, within 90 days after written notice has been given.

(3) A termination or suspension of services under this section is effective on the day written notice is given under subsection (2) of this section.

(4)(a) A service member who terminates or suspends the provision of services under this

section and who is no longer in active service may reinstate the provision of services on the same terms and conditions as originally agreed to with the service provider before the termination or suspension upon written notice to the provider that the service member is no longer in active service. Written notice under this subsection must be given within 90 days after termination of the service member's active service.

(b) Upon receipt of the written notice of reinstatement, the service provider shall resume the provision of services or, if the services are no longer available, provide substantially similar services within a reasonable time not to exceed 30 days from the date of receipt of the written notice of reinstatement.

(5) A service member who terminates, suspends or reinstates the provision of services under this section:

(a) May not be charged a penalty, fee, loss of deposit or any other additional cost because of the termination, suspension or reinstatement; and

(b) Is not liable for payment for any services after the effective date of the termination or suspension, or until the effective date of a reinstatement of services as described in subsection (4) of this section.

(6) A service member may terminate a contract for any service provided by a commercial mobile radio services provider in accordance with 50 U.S.C. 535a.

# NFIB

The Voice of Small Business.®

ALASKA

February 8, 2018

The Honorable Chris Tuck  
State Capitol Building  
Juneau, Alaska 99801-1182

RE: House Bill 307

Dear Representative Tuck:

On behalf of the NFIB/Alaska, I wish to respectfully share our concern with House Bill 307. NFIB, the Voice of Small Business is the largest small-business advocacy group in Alaska.

We appreciate the need to extend the certain protections of the federal Servicemembers Civil Relief Act to Alaska's organized militia. The extension to additional contracted services is concerning to small businesses. Small Alaska businesses, many of which are operated by veterans, have difficulty maintaining viability. Thus there must be a balance between support for militia members and local businesses.

We believe that the notice should be delivered to the business within a limited period after the orders are received then be effective on the date of deployment or the providing of written notice, which ever is later.

Sincerely yours,



Dennis L. DeWitt  
Alaska State Director

Cc: NFIB/AK Leadership Council  
Representative Saddler



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Military and  
Veterans' Affairs**

Office of the Commissioner

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JBER, AK 99505-0800  
Main: 907.428.6003  
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February 12, 2018

The Honorable Dan Saddler, Representative  
Alaska State House of Representatives  
Alaska State Capitol 428  
Juneau, AK 99801

Dear Representative Saddler:

Last week, in a conversation on HB 307, your staff posited a situation wherein an Alaska Organized Militia member took an over-the-counter or a prescribed medication and revealed that fact to his or her commanding officer, and the commander required the Soldier to undertake his/her duties regardless. Your staff asked if there would be consequences for the servicemember in the event s/he was impaired or otherwise unable to fully perform his/her duties competently and safely.

In light of HB 307, the following analysis is only in regard to the proposed amendment to AS 26.05.860. The amendment states a member of the militia, who, as a result of indulgence in any alcoholic beverage or drug, is unable to perform the member's duty, may be punished as directed by a court-martial. Under the hypothetical situation presented here, this analysis will not include alcoholic beverages and will be in the context of a "drug."

First, the situation envisioned did not indicate the service member was unable to perform his/her duties. The mere fact that the service member has taken a medication does not mean s/he cannot perform his/her duties.

Assuming, *arguendo*, the service member believes s/he is unable to perform his/her duties, but the commander still requires the service member to undertake those duties. By including the amendment to the Alaska Code of Military Justice provision formerly known as "drunk on duty," a recognized defense is provided to the accused, i.e., if the accused is known by superior authorities to be drunk, yet is thereafter ordered to assume that duty anyway, or if the drunkenness results from an accidental overdose administered for medicinal purposes, the accused will have a viable defense.

Here, given the defense stated above exists, neither a prosecutor nor the commander would have probable cause to bring the case to either court-martial or non-judicial punishment.

I hope this information is helpful. Please let me know if you have further questions.

Sincerely,

A handwritten signature in black ink that reads "Robert A. K. Doehl".

Robert A. K. Doehl  
Deputy Commissioner

cc: Representative Chris Tuck, Chairman  
House Special Committee on Military and Veterans' Affairs

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE TUCK

TO: HB 307

1 Page 1, line 3:

2 Delete "a member of the organized militia"

3 Insert "servicemembers"

4

5 Page 6, line 8, following "militia":

6 Insert "; contracts"

7

8 Page 6, lines 17 - 18:

9 Delete "member of the organized militia"

10 Insert "servicemember"

11

12 Page 6, line 18, following "services":

13 Insert "provided in this state"

14

15 Page 6, line 19:

16 Delete "member"

17 Insert "servicemember"

18

19 Page 6, line 20:

20 Delete "member"

21 Insert "servicemember"

22

23 Page 6, lines 26 - 27:

- 1 Delete "member of the organized militia"
- 2 Insert "servicemember"
- 3
- 4 Page 6, line 28:
  - 5 Delete "member"
  - 6 Insert "servicemember"
  - 7
- 8 Page 6, line 29:
  - 9 Delete "member"
  - 10 Insert "servicemember"
  - 11
- 12 Page 6, line 30:
  - 13 Delete "member" in both places
  - 14 Insert "servicemember" in both places
  - 15
- 16 Page 7, line 1:
  - 17 Delete "member"
  - 18 Insert "servicemember"
  - 19
- 20 Page 7, line 2:
  - 21 Delete "member" in both places
  - 22 Insert "servicemember" in both places
  - 23
- 24 Page 7, line 5:
  - 25 Delete "member"
  - 26 Insert "servicemember"
  - 27
- 28 Page 7, line 6:
  - 29 Delete "member"
  - 30 Insert "servicemember"
  - 31

1 Page 7, line 8:

2 Delete "member of the organized militia"

3 Insert "servicemember"

4

5 Page 7, line 9:

6 Delete "member"

7 Insert "servicemember"

8

9 Page 7, line 10:

10 Delete "member"

11 Insert "servicemember"

12

13 Page 7, line 13:

14 Delete "member"

15 Insert "servicemember"

16

17 Page 7, line 15:

18 Delete "member"

19 Insert "servicemember"

20

21 Page 7, line 16:

22 Delete "member of the organized militia"

23 Insert "servicemember"

24

25 Page 7, line 17:

26 Delete "member"

27 Insert "servicemember"

28

29 Page 7, line 18:

30 Delete "member"

31 Insert "servicemember"

1

2 Page 7, line 22:

3 Delete all material.

4

5 Renumber the following paragraph accordingly.

6

7 Page 7, line 24, following "AS 26.05.010(b)(1)":

8 Insert ";

9

10

(2) "servicemember" means a member of the armed forces of the  
United States or a member of the organized militia of the state"

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: HB 307

BY REPRESENTATIVE TUCK

- 1 Page 10, line 15, following "prisoner":  
2       Insert "or unlawfully uses a drug with a prisoner"  
3  
4 Page 12, line 3, following "alcohol":  
5       Insert "**or a drug**"  
6  
7 Page 12, line 9, following "drunk":  
8       Insert "or under the influence of a controlled substance"  
9  
10 Page 12, line 9, following "direct.":  
11       Insert "In this subsection, "controlled substance" has the meaning given in  
12 AS 26.05.870."  
13  
14 Page 12, line 13, following "alcohol":  
15       Insert "**or a drug**"

AMENDMENT

OFFERED IN THE HOUSE  
TO: HB 307

BY REPRESENTATIVE TUCK

1 Page 10, line 15, following "prisoner":

2 Insert "or unlawfully uses a drug with a prisoner"

3

4 Page 11, line 31, through page 12, line 7:

5 Delete all material.

6

7 Renumber the following bill sections accordingly.

8

9 Page 12, line 9, following "drunk":

10 Insert "or under the influence of a controlled substance other than a controlled  
11 substance taken in accordance with a valid prescription"

12

13 Page 12, line 10, following "direct.":

14 Insert "In this subsection, "controlled substance" has the meaning given in  
15 AS 26.05.870."

16

17 Page 17, line 23:

18 Delete "sec. 26"

19 Insert "sec. 25"

20 Delete "sec. 27"

21 Insert "sec. 26"

22

23 Page 17, line 24:

1 Delete "sec. 31"

2 Insert "sec. 30"

3 Delete "sec. 33"

4 Insert "sec. 32"

5

6 Page 17, line 26:

7 Delete "26, 27, 31, and 33"

8 Insert "25, 26, 30, and 32"

9

10 Page 18, lines 4 - 5:

11 Delete "AS 26.05.860, as amended by sec. 21 of this Act,"

12

13 Page 18, line 5:

14 Delete "sec. 22"

15 Insert "sec. 21"

16

17 Page 18, line 6:

18 Delete "sec. 23"

19 Insert "sec. 22"

20 Delete "sec. 24"

21 Insert "sec. 23"

22

23 Page 18, line 7:

24 Delete "sec. 25"

25 Insert "sec. 24"

26 Delete "sec. 26"

27 Insert "sec. 25"

28

29 Page 18, line 8:

30 Delete "sec. 27"

31 Insert "sec. 26"

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Page 18, lines 8 - 9:

- Delete "sec. 28"
- Insert "sec. 27"

Page 18, line 9:

- Delete "sec. 29"
- Insert "sec. 28"

Page 18, line 10:

- Delete "sec. 30"
- Insert "sec. 29"
- Delete "sec. 32"
- Insert "sec. 31"

Page 18, line 11:

- Delete "sec. 34"
- Insert "sec. 33"

Page 18, line 12:

- Delete "9 - 30, 32, and 34"
- Insert "9 - 29, 31, and 33"

Page 18, line 24:

- Delete "8 - 34, and 35(b) - (d)"
- Insert "8 - 33, and 34(b) - (d)"

Page 18, line 26:

- Delete "sec. 36"
- Insert "sec. 35"

1 Page 18, line 31:

2 Delete "8 - 34, and 35(b) - (d)"

3 Insert "8 - 33, and 34(b) - (d)"

4 Delete "sec. 37"

5 Insert "sec. 36"

6

7 Page 19, line 2:

8 Delete "sec. 38"

9 Insert "sec. 37"

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 5, 2018

**SUBJECT:** Drug offenses (HB 307; Work Order No. 30-LS1099\A.1)

**TO:** Representative Chris Tuck  
Attn: Kendra Kloster

**FROM:** Kate S. Glover *KS*  
Legislative Counsel

The amendment you requested relating to military justice offenses involving alcohol and drugs is attached. As you know, the term "drug" is broad and includes prescription medications and over-the-counter medications. In some cases, the use of this broad term could implicate the privacy rights of militia members and, for members who take medications because of a disability, rights under the Americans with Disabilities Act.

I wanted to call your attention to one section in particular. Under bill section 21 (proposed amendments to AS 26.05.860) as it would be amended, a person could be punished if "found under the influence of alcohol or a drug while on duty". Generally, the term "under the influence" is used in the statutes in conjunction with alcohol or controlled substances. It is not clear how the term would apply if a person is taking a prescription medication such as an antibiotic, or, for example, an over-the-counter anti-inflammatory. Please note that the clause "is unable to properly perform the member's duty" modifies only "as a result of indulgence in any alcoholic beverage or drug"; it does not modify "is found under the influence of alcohol or a drug while on duty."

If I may be of further assistance, please advise.

KSG:mlp  
18-061.mlp

Attachment

## **State Enhancements to the Service Members' Civil Relief Act (SCRA) Frequently Asked Questions**

### 1. What does the federal SCRA cover?

The federal SCRA (50 U.S.C. §§501 – 597b) is divided into seven titles:

- a. §§501 – 502 provide the short title and index.
- b. Title I – General Provisions (§§511 – 519,) generally covers definitions, jurisdiction and applicability, requirements to inform Service members, rights to waive protections, and limitations on denial of services based on protections.
- c. Title II – General Relief (§§521 – 527), generally describes the protections against default judgements, stays of court proceedings, stays of fines and penalties, stays of judgements and garnishments, and maximum rate of interest during military service for obligations made *prior* to entering active service.
- d. Title III – Rent, Installment Contracts, Mortgages, Liens, Assignment, Leases (§§531 – 538), generally describes stays of leases and contracts that may be in default, stay of evictions and foreclosures, ability to terminate residential and vehicle leases, termination of telephone service contracts, protection from assigning a life insurance policy and protection from enforcement or foreclosure of a lien. Service members can terminate residential and vehicle leases (§535), as well as telephone service contracts (§535a) that were established while on active duty, based on military orders for permanent change of station or deployment.
- e. Title IV – Life Insurance (§§541 – 549), generally covers protections concerning coverage and premiums charged for life insurance products.
- f. Title V – Taxes and Public Lands (§§561 – 571) generally describes deferrals on personal and real property taxes, income taxes and protection of property/mineral rights on public lands.
- g. Title VI – Administrative Remedies (§§581 – 583) describes the prima facie evidence required to support SCRA protections and status of missing Service members.
- h. Title VII – Further Remedies (§§591 – 597b) generally covers power of attorney, professional liability relief, reinstatement of health insurance, enforcement by the Attorney General and private right of action.

### 2. What would the suggested state legislation supplement in the federal SCRA?

The suggested legislation supplements the provisions currently covered in Title III, §§535 and 535a, which allow Service members on active duty to terminate residential and vehicle leases, as well as telephone service contracts, established while on active duty.

3. Why address the suggested protections as part of state law as opposed to federal law?

These protections could be covered in federal law; however, consumer protections are generally found in state statute. Additionally, states can determine which additional protections make sense within the context of other protections afforded to consumers within the state.

4. Why consider these suggested protections for members on federal active duty and not consider protections for members of the National Guard on state-sponsored mobilizations?

Most states already provide some consumer protections for state-sponsored mobilizations. Members of the National Guard are included, and the proposed protections could be made applicable during state call-up. Additionally, states may want to consider referencing the federal SCRA, or including the provisions of the federal SCRA, in their state statute to cover state-sponsored mobilizations.

5. Some states (like Delaware and Indiana) have included a reference of the federal SCRA (or copied the provisions of the federal SCRA) in statute and made it relevant to federal mobilizations. Why copy the federal requirement?

Some states have included the federal SCRA to allow their state Attorney General authority to enforce the law within state courts. Other states already allow their Attorney General to prosecute violations of federal laws.

6. Does the state need to include all of the suggested contracts in their proposed legislation?

The suggested contracts are included as they were written in the Indiana and Oregon legislation. The additional requirement of allowing Service members to sever residential property leases to move into government owned/leased housing was recommended by the DoD Chief of Legal Assistance. This requirement has also been in place as part of rental agreements approved by the Installation Housing Offices, and the proposed legislation provides an associated state provision. States can determine to what degree they wish to include the suggested protections.



# Representative Chris Tuck

## House Majority Leader

Alaska State Legislature

District 23 - Representing Dimond Estates, Foxridge, Taku,  
Campbell, Northwood and Windemere

### MEMORANDUM

February 16, 2018

**TO:** Representative Matt Claman  
Chair, Judiciary Committee

**FROM:** Rep. Chris Tuck  
House Majority Leader

**SUBJ:** Memo of Changes for HB307

The House Military and Veterans Affairs Committee adopted two amendments which are reflected in version D.

- The bill references a member of the militia may not consume alcohol on duty. To keep statutes consistent the committee added in "or a drug" in sections 16, 21 and 22. And added the definition of a controlled substance in section 22.
- Changed "a member of the organized militia" to "servicemembers" in the title and section 7. Servicemembers has the definition of a member of the armed forces of the United States or a member of the organized militia of the state. The reason for this change was to ensure those who serve in the united states armed forces were also included for protections under the Servicemembers Civil Relief Act.