



ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GENERAL COUNSEL

PO BOX 2448, RALEIGH, NC 27602
O 919-890-1300
F 919-890-1914

MEMORANDUM

TO: Clerks of Superior Court
Assistant Clerks of Superior Court
Deputy Clerks of Superior Court
Magistrates
District Court Judges
Superior Court Judges

FROM: Matt Kraus, Assistant Legal Counsel
Nicole Brinkley, Assistant Legal Counsel

DATE: November 7, 2019

SUBJECT: The North Carolina Servicemembers Civil Relief Act
Amendment to G.S. 127B-29
[S.L. 2019-161](#), [S.L. 2019-243](#)¹

On July 25, 2019, the Governor signed into law Senate Bill 420, Session Law 2019-161. Part 1 of S.L. 2019-161 created the North Carolina Servicemembers Civil Relief Act (NC SCRA) in Article 4 of G.S. Chapter 127B. The NC SCRA became effective October 1, 2019. On November 6, 2019, the Governor signed into law House Bill 470, Session Law 2019-243, which amended G.S. 127B-29 in Section 29.5, creating a significant change to the recently enacted NC SCRA.

Prior to the enactment of the NC SCRA, the federal Servicemembers Civil Relief Act (SCRA) already applied to civil actions and other non-criminal proceedings in North Carolina. This memorandum does not summarize the NC SCRA in its entirety, but highlights some of the provisions in the NC SCRA, as amended by Section 29.5 of S.L. 2019-243, impacting judicial officials. The impact of these provisions includes:

- (1) incorporates into State law the rights, benefits, and protections afforded to servicemembers engaged in military service in the SCRA, Chapter 50 of Title 50 of the United States Code;
- (2) extends the rights, benefits, and protections under the SCRA to
 - (i) members of the North Carolina National Guard serving on state active duty, and
 - (ii) members of the National Guard of other states serving on state active duty who reside in North Carolina;
- (3) extends the rights and benefits related to termination of contracts provided under G.S. 127B-30 to dependents of servicemembers engaged in military service; and

¹ For future reference, this memo will be available on NCAOC's Juno website for Judicial Branch users, under the category Civil Memos, at <https://juno.nccourts.org/legal-memos>.

- (4) incorporates into State law the rights and protections already afforded to dependents of servicemembers under Subchapter III of Chapter 50 of Title 50 of the United States Code.

Specifically, the amendment to G.S. 127B-29 eliminated the expanded rights and protections afforded to dependents under Subchapter II of Chapter 50 of Title 50 of the United States Code, effective retroactively to October 1, 2019, which included certain protections against default judgments, stay of civil actions and proceedings, and the tolling of statutes of limitations.

Section 29.5(a) of S.L. 2019-243, amended G.S. 127B-29 as follows:

§ 127B-29. Dependent's rights and protections.

A dependent of a servicemember engaged in military service has the same rights and protections provided to a servicemember under G.S. 127B-30 and ~~under Subchapter II~~ a dependent under Subchapter III of Chapter 50 of Title 50 of the United States Code.

The Servicemembers Civil Relief Act Affidavit made available by the NCAOC (AOC-G-250) will be updated and posted on Juno to reflect these changes. For more information regarding the federal Servicemembers Civil Relief Act and its impact on non-criminal actions and proceedings, please review the [SCRA FAQ Memorandum](#) previously issued by the NCAOC. This memo supersedes and completely replaces the NCAOC memo dated October 1, 2019 entitled, "The North Carolina Servicemembers Civil Relief Act."

Court officials with any questions may contact Matt Kraus at Matthew.R.Kraus@nccourts.org or Nicole Brinkley at Nicole.N.Brinkley@nccourts.org. Thank you.