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An Introduction to Military Legal Assistance Programs for the Civilian Practitioner.

This lecture will provide the civilian practitioner with a (brief) overview of the military's Legal Assistance Program, specifically the Marine Corps' program, including how military or Veteran legal matters intersect in some areas of civilian law. Among the cases reviewed will be:

Butler County Bar Association v. Minamyers, 124 Ohio St.3d 1528 (2010); *In re ADOPTION OF W.C., N.K.A. W.B.* 189 Ohio App.3d 386 (2010); and *Fifth Third Bank v. Schoessler's Supply Room, L.L.C.*, 190 Ohio App.3d 1 (2010). Various chapters of the Ohio Revised Code, Title LIX, will be discussed including (but not limited to) Chapter 5903 "Veterans Rights."

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Material:

We will cover a broad spectrum of material today, but not with the intent of making you an expert in the field of military law or turning you into a military legal assistance practitioner. My goal is to explain to you what the military legal assistance programs do, specifically through the lens of the Marine Corps Legal Assistance Program, so that you are better able to represent your clients when practicing in the State of Ohio. We will cover what, in general, the “Military” is and who is eligible for military legal assistance so that you’re better able to frame your case assessments. From there we’ll pivot our attention to the practice of law in Ohio and how specific areas of military law may intersect with your practice.

NOTE: This outline is not a verbatim text of my lecture. Some of the material is too complicated to get into in a one-hour session, so I’m putting it in writing but will gloss over it when we speak. Other material is so simple that I’ll dispose of it “live” without investing too much time in writing it into the outline. One last point is that similar material may be covered in several places through the course of this outline. That reflects the reality that many readers will not read all the way through from top to bottom but will dive in at subject headings that pique their interest. To avoid confusion, where possible I’ve tried to make the separate subject sections self-sufficient.

Personal:

I am a retired Lieutenant Colonel in the United States Marine Corps Reserve, I have over 18 years of active-duty service and 29 years of total Reserve service. I served as an attack helicopter pilot flying the AH-1W Super Cobra, which is now a museum piece (!!!), and a Judge Advocate (military lawyer). While serving I deployed twice aboard ship (the USS Tarawa, which is now a man-made reef (!!!), and the USS Peleliu), and performed duties in Guam, South Korea, Thailand, Singapore, Kuwait, Bahrain, Qatar, UAE, Saudi Arabia, Eritrea, Jordan, Australia, New Zealand, Papua New Guinea, East Timor, France, Germany, Switzerland. I consider myself very fortunate to say that although I was sent to go fight on a couple occasions, I have never seen combat and I don't want to mislead anyone on that point. No stolen valor for this guy!

I have over 15 years of experience specializing in the Disability Evaluation System (DES), which is how the military medically retires, separates, or retains its people. I have worked in the DES as an active-duty Judge Advocate in the Marine Corps Reserves, as a Department of the Navy Civilian Attorney, and in a private capacity.

In 2018 I created a nonprofit, The Warriors' Lawyer, designed to provide expanded DES services to military personnel and Veterans. We take a special interest in Ohio cases, particularly in Southwest Ohio where we as Ohioans have our largest military presence.

In 2024 I accepted my current position at Headquarters Marine Corps, Judge Advocate Division, as the Branch Head of Legal Assistance for the Marine Corps.

I attended Ohio Wesleyan University for my undergraduate education (BA in German and History, 1992), Naval Postgraduate School (Aviation Safety Officer), the Ohio State Moritz College of Law (JD Class of 2006).

I am an Ohio attorney, have lived in Germany for eight years (including military service, university study, and as a civilian) am a proud Ohioan who lives in the southernmost city in Ohio, commonly known as Tampa, Florida.

What “IS” the Military:

Army, Navy, Air Force, Marines, Coast Guard, Space Force, and a few others:

Those are the classics - everyone knows about them, and in the U.S. Government they fall (mostly) under the Department of Defense. But most people only know about them at the macro level, in other words, they know that they exist, they’re proud of them, and yet that may well be it. “Thank you for your service!” But really, it’s easy...Army means “tanks,” Navy means “ships,” Air Force means “aircraft,” Marines means, um, “great uniforms?” Coast Guard...ehhh...‘smaller ships?’ And Space Force? Oh...easy! “Jean-Luc Picard & the Starship Enterprise.” Right?

But first, the law: turn to the US Constitution, look to Article I, Section 8. There’s a lot of good information there, most of which has to do with the actual provision of the common defense. From there, turn to the United States Code, Titles 10 and 32. Title 10 covers the Active and Reserve Components, Title 32 covers the National Guard. There is an absolute maze of regulatory material controlling the day-to-day existence of the military. (Notably, far and away most of it is NOT in the Uniform Code of Military Justice - or UCMJ. That’s for criminal proceedings within the military – it doesn’t deal with much of anything else.)

So it’s all about Congress & what they want. They’ve created one (or...two¹) Departments controlling the armed forces - the Department of Defense and the Department of Homeland Security. Within those you have the Department of the Army, the Department of the Navy, the Department of the Air Force, and the U.S. Coast Guard. And then there are the branches. Within the Department of the Air Force, you have the U.S. Air Force and the U.S. Space Force. Within the Department of the Navy, you have the U.S. Navy, and the U.S. Marine Corps, and on occasion the U.S. Coast Guard.

According to § 5903.01, “Definitions,” the Ohio Revised Code says "Armed forces" means: the armed forces of the United States, including the army, navy, air force, marine corps, coast guard, or any reserve components of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; or the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days².

If all of this is confusing, that’s because it is. And just wait...it’s about to get worse. You should understand the difference between “Active Duty,” the “Active Component,” and the “Reserve Component.” Many people in the military refer to themselves as “Active Duty” meaning “I’m in uniform every day, and have a four-year contract, so I will continue to be in uniform every day until the end of that contract.” But in fact, they’re “active component,” not “active duty,”

¹ “Two,” because the U.S. Coast Guard ordinarily falls under the Department of Homeland Security. The Coast Guard can be pulled under the Department of the Navy in wartime however, which is why it’s either one, or two.

² <https://codes.ohio.gov/ohio-revised-code/section-5903.01>

because “active duty” is just a description of a particular duty status. The “Active Component” is a part of the federal armed forces, the other part of which is the “Reserve Component.” Almost all members of the Active Component are also on Active Duty, but Reserve Component personnel are also able to serve on Active Duty for years at a time. (Just like me!)

The Reserves, and the National Guard:

The Reserve Component of the military is sort of the Federal backup force, able to be called up to serve alongside and integrate into the Active Component. The National Guard, on the other hand, is a state-by-state affair which can be called up into either state or federal service. Unlike the Reserves however, which are already federal, the National Guard units stay intact when called up for State Active Duty- they usually don’t get integrated into existing federal units unless they’re called up on federal (Title 10) orders.³

After 29 years of service as a Reservist, even I can’t keep track of all the changes and iterations with National Guard questions of command and control! Depending on where you are in Ohio, you may have more experience with Reservists or with the National Guard than with the rest of the military. There isn’t much military presence in Ohio outside of Wright Patterson, except for Reservists and National Guard units. The National Guard has both an internal and external role – internally they’re best known when flooding or tornados hit the state. Externally they’re primarily leaving their home state for training purposes or deploying for longer term missions overseas. Ohio has a particularly large national guard, fourth largest amongst all the states.

Other Examples of Uniformed Services:

National Oceanic and Atmospheric Administration⁴

Public Health Service⁵

Ohio Organized Militia:

 Ohio’s State Defense Forces:

 Ohio Military Reserve⁶

 Ohio Naval Militia⁷

 Ohio National Guard

 Ohio Cyber Reserve

Ohio Unorganized Militia.

 This includes all citizens of the state to whom all of the following apply:

 (1) They are not members of the Ohio organized militia ;

³ This can get more complicated than anyone needs. It has grown more complicated post-Hurricane Katrina! Really picky readers may find fault in my simplification, but I believe it serves its purpose well & if you have a question...just email me.

⁴ NOAA falls under the Department of Commerce.

⁵ The PHS falls under the Department of Health and Human Services.

⁶ <https://ohio.gov/wps/portal/gov/site/residents/resources/ohio-military-reserve>

⁷ <https://ohio.gov/wps/portal/gov/site/residents/resources/naval-militia>

- (2) They are more than seventeen years of age and not more than sixty-seven years of age;
- (3) They are not exempt from service under section [5923.02](#) of the Revised Code.⁸

Why does all of this matter to you? Ok – seriously? Did you read who’s in the Ohio Unorganized Militia? Because if you bleed Scarlet and Gray…it’s probably you. Welcome to the Ohio Unorganized Militia! (Surprise?!?)

But this matters to you as attorneys even more, because there are benefits at stake, benefits that your clients may need, want, have been deprived of, or that they themselves are depriving someone of. And there are protections in state and federal law applying to the military, so if you don’t know who counts as being in the military you can’t even begin to know whether your client (or your opponent’s client) benefits from certain provisions of Federal or State law.

Military Retirement:

Military retirement is one of the main benefits of military service; maybe less well known than the GI Bill, but it generally has a value well in excess of GI Bill benefits. It is also common to see military retirement benefits being fought over by attorneys, precisely because of its great overall value. The basic rule is that after 20 years of active-duty service, a Servicemember has earned a “Regular” retirement.⁹ This retirement is extremely valuable. Effective immediately upon retirement, the Servicemember receives 2.5% of their basic pay, per year of service, for the remainder of their life.¹⁰

Assuming retirement at 20 years, in the case of an E-7 (Enlisted, 7th rank up from the starting point) that equates to \$36,102.60 per year in retired pay¹¹. An O-5 (Officer, 5th rank up from the starting point for officers) receives \$69,553.80 per year in retired pay¹². Since that can become payable at age 37 (17 is the youngest age for enlisting in the military) and the current (2017)

⁸ <https://codes.ohio.gov/ohio-revised-code/section-5923.01>

⁹ This “basic rule” is becoming obsolete, as the “Blended Retirement System” (BRS) becomes more prevalent. The BRS is a relatively newer retirement system, implemented in 2018. It is far more complex and I’m electing not to dig into it here.

¹⁰ In fact, a Servicemember’s (Veteran’s) retirement can continue paying out to the spouse for years and years after the Veteran passes away.

¹¹ <https://www.dfas.mil/militarymembers/payentitlements/Pay-Tables/>

¹² <https://www.dfas.mil/militarymembers/payentitlements/Pay-Tables/>

average life expectancy in the USA is 77.5 years¹³, the military retiree can retire with over half of their remaining expected lifespan paid for by their retirement earnings.¹⁴¹⁵

One important nuance of military retirement is that a spouse of a retiree can retain some of the benefit of the military retirement, even after divorce. This is what is often called “20/20/20” status. (“20/20/20” means twenty years of marriage, twenty years of military service (not combinable between the spouses), and twenty years of marriage coinciding with the twenty years of service.) This is a recognition of the sacrifice made by military families, with constant moves, uncertainty, etc.

¹³ <https://www.cdc.gov/nchs/fastats/life-expectancy.htm>

¹⁴ A military retiree receives countless additional benefits, not the least of which is continuing health care coverage under the military health care insurance program, TRICARE. For a retiring Servicemember the current annual cost of TRICARE for a family is \$744, with no annual deductible. See: https://tricare.mil/Publications/Costs/costs_fees

¹⁵ Base access, with access to recreational facilities, base housing, space-available travel on military transport aircraft, and **access to legal assistance** are among many of the other benefits a Retiree enjoys. In addition to these military-provided benefits, there are a host of private-sector discounts available to retired military personnel.

Military Legal Assistance Attorneys

So – what is the truth about being a Military Legal Assistance Attorney (MLAA)? The truth is that as a MLAA, you lead a high-paced, highly diverse practice with a client base that you can truly appreciate. Whether in uniformed or civilian service, you provide what amounts to classical “legal aid” services, in that your clients do not pay for service. Especially in light of the relatively low pay for starting members of the military, attorney services might otherwise be out of reach for them. And yet because of the peculiarities of military service (overseas deployments, frequent moves between states, lengthy field-training exercises, etc) typical legal aid clinics might still not be able to meet their needs.

Where do Military Legal Assistance Attorneys Come From:

Let me give you the basics. First, the uniformed MLAs: In order to be a “Judge Advocate,” which you’ll hear called “JAG” a lot, you have to be a licensed attorney first. The military recruits lawyers from within its ranks and from colleges and universities nationwide. This means that military lawyers often have previous experience in a different job, whether as a civilian attorney, whether in a different military specialty (infantry, aviation, intelligence, etc.) and therefore have a wide experience base.

Other services (Air Force, Army, etc.) usually send their prospective judge advocates to a shorter initial training period (which, for example, the Navy calls it’s Officer Development Course – a five-week session in Newport, RI.) Thereafter the new officers proceed to their respective service’s mini-law school, where they learn about the nuances of military law.

Fun fact, military law is actual, real, no-kidding law. The Military Rules of Evidence mirror the Federal Rules of Evidence, and (although you may find this surprising) military criminal law affords far more rights to the accused than civilian law. If reading a suspect their right to remain silent before ANY questioning can occur seems hard to imagine for you, the military does just that. Before an investigator asks ANY question which could reasonably lead to evidence of a crime they are required to read the suspect their rights. Watch an episode of COPS sometime and try to envision just how differently that show would look if civilian police had to deliver a Miranda warning before asking “have you been drinking?”

I did mention “other services,” that serves up an important distinction for the Marine Corps. Our judge advocates are required to commission via the same path as all other USMC officers do – whether a service academy, ROTC, or Marine Corps Officer Candidates School. Once commissioned they proceed, along with all other new USMC officers, to The Basic School – a six-month course in Quantico, VA. This course teaches them how to perform as a rifle platoon leader...meaning that our lawyers all know how to call in artillery, air strikes, shoot rifles and hit targets 500 meters away, and do hand-to-hand combat. Successful completion of TBS (including a 20-mile hike with weapons and 80+ pounds of equipment) enables the new Marine officer to proceed to Naval Justice School, where along with Navy and Coast Guard judge advocates, they are schooled in military law for ten weeks in Newport, RI.

Among the subjects covered in the mini-law schools is Legal Assistance. Students learn how to interact with clients, receive basic instruction on the higher points of the SCRA, USERRA, etc, and then receive orders to their first duty station (military base).

For our civilian MLAA's, the path can be decidedly different. There is no requirement that a civilian MLAA have served in uniform, the only real requirements are bar licensure in good standing and a willingness to serve. After the hiring process is complete, the civilian MLAA begins work at their new duty station.

Both civilian and uniformed MLAA's have the opportunity to attend the Army's Legal Assistance Course, in Charlottesville, VA, and to attend a variety of other in-person and online training events throughout their career. Typically our civilian MLAA's already have deep, relevant experience in the field, so they become an outstanding resource for our (typically less experienced) uniformed MLAA's.

What do Military Legal Assistance Attorneys Do?

Our MLAA's work hand-in-hand with our legal professionals (military paralegals, civilian paralegals, and administrative support personnel) to deliver legal services to our nation's military community. Active-duty military personnel (whether in the Active or Reserve Component) receive first priority for services, thereafter there exists a tiered-system of prioritization for services. Among our other potential clients are family members / dependents of military personnel, certain foreign military personnel, retired servicemembers and their families, and certain other civilians.

A large portion of the services provided can be attended to without an attorney – services such as notarizations, affidavits, power of attorney, etc. Where possible those are handled by our legal professionals. Depending on the size of the office however, a MLAA may handle those matters as well. More commonly however, after a conflict check, the MLAA will advise on family law, consumer protection, immigration, military rights/benefits, estate planning, and in some cases they may provide support to certain crime victims.

Far less commonly the MLAA will engage in the Expanded Legal Assistance Program (ELAP.) This allows qualified MLAA's to represent Servicemembers in court proceedings out in the civilian sector. It is decidedly uncommon, but it is not unheard of – so if you someday find yourself in civilian court facing a uniformed military attorney – you are not imagining things.

A key area of focus for the MLAA is preventive law. We expend considerable time and resources educating our service populations about their rights and responsibilities under the law. This means our attorneys are often out of the law office, visiting jet squadrons to deliver legal briefings to pilots and mechanics, or at an infantry battalion teaching young Marines about the law.

And although our civilian MLAAAs have no military duties, our uniformed MLAAAs most certainly do. For Marines this includes annual training with trips to the rifle and pistol range¹⁶, more hand-to-hand combat training¹⁷, fitness tests¹⁸, and (much like your annual CLE requirements) they have annual Professional Military Education requirements¹⁹.

One key element to the uniformed MLAAAs service is that although they do enter into an attorney-client relationship with their clients, it has limits based primarily in military exigencies. This means that if the military needs an MLAA to go provide assistance to a humanitarian aid operation (HAO). (These are often in the context of typhoons, mudslides, or other natural disasters.) MLAAAs can attend training exercises overseas with foreign militaries (as an example - I took part in training exercises in Australia and Thailand, one of which unexpectedly turned into a HAO when Burma was struck by a typhoon), or gain operational experience by deploying with our units around the world.

While in an exercise or operational environment the nature of the job remains basically unchanged, but some additional elements come into play. Claims against the government by foreign nationals must be settled, Servicemembers might need to be bailed out of local jails or provided with first-response legal help, it can be a wildly diverse practice in these sorts of settings.

¹⁶ <https://www.marines.mil/News/Publications/MCPPEL/Electronic-Library-Display/Article/2996982/mco-35742m/>

¹⁷ <https://www.fitness.marines.mil/Portals/211/documents/MCO%201500.59A.pdf>

¹⁸ https://www.fitness.marines.mil/pft-cft_standards17/

¹⁹ <https://www.usmcu.edu/Academic-Programs/Professional-Military-Education-Continuum/>

Military & Veterans Law and the Practice of Law in Ohio

Military Legal Assistance Offices:

One way you may encounter military personnel during the course of your civilian practice is through military Legal Assistance Offices. Different branches of the military provide different levels of service, and often the degree of service is location dependent. Military Legal Assistance Offices are often staffed by fresh-out-of-law school military attorneys (usually Lieutenants or Captains) who are eager to stand out amongst their peers. Expect them to be zealous advocates for their clients.

The Legal Assistance Office is a free service for Servicemembers and their families. They do not typically litigate in court on behalf of their clients, and cannot “co-represent” with civilian counsel. They do provide (for example) basic wills, powers of attorney, notary service, separation agreements, and other services.²⁰

SCRA: The Servicemembers’ Civil Relief Act offers wide-ranging relief to military members and their families. It used to be called the Soldiers’ and Sailors’ Civil Relief Act, you’ll still see and hear it referred to as such from time to time, but it was renamed & updated in 2003 and has been updated multiple times since then.²¹

A great example for you comes directly from the DOJ concerning one of the biggest benefits and points of contention with the SCRA - the six percent interest cap. From the DOJ’s website, a hypothetical under Section 3937 of the SCRA, 50 U.S.C. § 3937: John Doe takes out a mortgage and then enters military service. Captain John Doe is in military service continuously for 20 years. Captain Doe retires from military service and on the 179th day of his retirement asks that the interest rate on his mortgage be lowered to six percent per year. Captain Doe provides his creditor with a written notice and a copy of all of his military orders. The creditor must forgive the entire 20 years of interest that was at a rate greater than six percent – inclusive of fees – and an additional year of interest going forward. See, generally, 50 U.S.C. § 3937. You can envision the lender not being excited about this, and in my experience the smaller the lender the more likely they are to put up a fuss. Often the lender wants to refuse to lower the rate on co-signed loans for vehicles, on the theory that the co-signer did not also join the military. These sorts of cases can get ugly on the telephone in a hurry...

In another, only slightly modified example from the same DOJ website, another common SCRA issue is illustrated: Under Section 3955 of the SCRA, 50 U.S.C. § 3955: Jane Servicemember receives PCS orders to transfer from Wright Patterson Air Force Base in Ohio to Lackland Air Force Base in Texas. She gives her landlord written notice of her intent to terminate her apartment lease and a copy of her PCS orders on September 18th. Her next rent payment is due

²⁰ For an Ohio example see the Wright Patterson Air Force Base Legal Assistance Office website at: <https://www.wpafb.af.mil/Units/ja/> , and <https://www.mcicast.marines.mil/Staff-Offices/Regional-Legal-Services-East/Legal-Services-Support-Team-Camp-Lejeune/Legal-Assistance/> for a Marine Corps example.

²¹ <https://www.justice.gov/crt/servicemembers-civil-relief-act-summary>

on October 1st. The effective date of the lease termination will be Halloween – October 31st. See, generally, 50 U.S.C. § 3955.

This is something which often generates friction between apartment complexes and Servicemembers - a one year lease signed only one month ago, an unexpected set of orders is received by the Servicemember, and they are out of their 12 month contract after only two months. Very often you will see attempts by the landlord to improperly retain some or all of the security deposit in an attempt to recover some of their lost future rent money.

For you as a practitioner in Ohio, whether advising the lender or the Servicemember/Veteran, an awareness of the SCRA is hugely important. Your awareness has to be based on proper screening & intake, in order to establish what, if any, military connections to the case you may encounter.

USERRA: The Uniformed Services Employment and Reemployment Act. This offers similarly wide-ranging protections to Servicemembers²², although they are protections which are sometimes hard to enforce. See the Department of Labor's website for some examples of their prosecution of offenses under USERRA.²³

One hotspot for this sort of case seems to be Fire / EMS / Law Enforcement. A comparatively high percentage of Fire / EMS / Law Enforcement personnel are also military personnel, whether in the Reserves or in the National Guard. Be alert to these sorts of issues, as well as the increased likelihood of having a military connection to your case, when dealing with Fire / EMS / Law Enforcement personnel.

USFSPA: The Uniformed Services Former Spouses' Protection Act, 10 USC Section 1408, as mentioned above, was enacted to protect the spouses of military personnel. Too often, the spouse would give up on their career (made practically impossible to pursue thanks to moving, on average, once every 4 years) and then after retirement from the military the marriage would deteriorate & lead to divorce. The spouse was all too often left with nothing. Some special considerations are in play with USFSPA cases, having to do with military career timelines. A former spouse may not learn the final retirement pay for years after divorcing, since military careers can last longer than 30 years - conceivably as long as 48 years (age 17 is the minimum, age 65 is the maximum). A divorcee could theoretically wait 28 years to find out the final retirement pay.²⁴

What's more, military retirement pay is often waived, or offset, in order to allow for VA Disability pay to be received. VA Disability pay is not only non-taxable, it is also indivisible in divorce settlements. (See *Howell v. Howell* from 2018 for more on this.) This has the effect of reducing the divisible portion of retirement pay.

²² A quick summary available here: <https://www.dol.gov/agencies/vets/programs/userra/aboutuserra>

²³ <https://www.dol.gov/agencies/vets/programs/userra>

²⁴ Look to the Defense Finance and Accounting Service for a quick reference on their website at: <https://www.dfas.mil/Garnishment/usfspa/legal/>

With Reservists, it's also easy to forget sometimes that there is a retirement (with pay) lurking out there in the future. A 17-year-old recruit who does 20 years in the Reserves will typically have to wait until age 60 for their retirement pay to begin paying out. Don't forget to ask your clients about the military status of their former spouses. I have personally discovered the "lost retirement" for clients on more than one occasion.

The Ohio Revised Code:

For starters, it may come as a surprise, but most of you reading this are in Ohio's militia. Ohio has two kinds of militia. There is the "organized militia," and the "unorganized militia." Pretty much, if you're an Ohio resident and NOT a member of the U.S. Armed Forces (Army, Navy, Reserves etc.) then you're in one or the other of the types of Ohio militia. Just in case you thought I was joking about the "unorganized militia," here's the pertinent part of the Ohio Revised Code:

§ 5923.01. State militia membership - limitation of troops

(D) The unorganized militia consists of all citizens of the state to whom all of the following apply:

- (1) They are not members of the Ohio organized militia;
- (2) They are more than seventeen years of age and not more than sixty-seven years of age;
- (3) They are not exempt from service under section 5923.02 of the Revised Code.

Most of what you need to know about Ohio law as it relates to military personnel and Veterans is found in section 5900 of the Ohio Revised Code. It spells out benefits, things like the Veterans Homes, the Ohio Military Code of Justice, etc. Here are some examples for you:

§ 5903.11. Veteran priority system to provide maximum employment and training opportunities to veterans

(Too long to include the text, look it up if you're interested. This codifies the way Veterans are given priority/preference in hiring and other areas.)

§ 5903.12. Extension of continuing education reporting period for licensee called to active duty military service

As an attorney, you submit "Ohio CCLE Form 9(a) Application for Exemption from Educational Requirements Full Time Military Duty" and can have your CLE requirements waived - if you're on active duty. (Note that exemption does not remove the "New Lawyer Training" requirement, which is why 13 years after swearing in to the Ohio Bar I sat through my New Lawyer Training in September 2019.)

§ 5903.15. Preferential hiring policies

(A) ...

(B) An employer may adopt a policy to provide a preference for employment decisions, including hiring, promotion, or retention during a reduction in force, to a service member, veteran, or the spouse or a

surviving spouse of a service member or veteran.

(C) A preference provided under division (B) of this section is not a violation of any state or local equal employment opportunity law. ...

(D) If an employer elects to adopt a policy described in division (B) of this section, the employer may notify the Ohio department of job and family services. The department of job and family services shall maintain a registry of employers that have a voluntary veterans' preference employment policy as described in this section, which shall be available to the public on the web site maintained by the department. The department of veterans services shall make available on the department's web site a link to the registry.

§ 5903.10. Renewal of license or certificate

(A) A holder of an expired license or certificate from this state or any political subdivision or agency of the state to practice a trade or profession shall be granted a renewal of the license or certificate by the issuing board or authority at the usual cost without penalty and without re-examination if not otherwise disqualified because of mental or physical disability and if either of the following applies:

(1) The license or certificate was not renewed because of the holder's service in the armed forces .

(2) The license or certificate was not renewed because the holder's spouse served in the armed forces of the United States or a reserve component of the armed forces and the service resulted in the holder's absence from this state.

(B) A renewal shall not be granted under division (A) of this section unless the holder or the holder's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(Author's note: This provision of law is cold comfort when you're on the side of the road, discussing Ohio law with a State Trooper from some other state who's curious why your driver's license has apparently been expired for over three years...)

Ohio Case Law Examples:

I have chosen some representative cases for you showing the degree of importance the Ohio court system places on military service, and some of the typical fact patterns which arise when the military and civilian worlds collide.

In the case of In re L.R.-R

Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County, October 20, 2022, Released; October 20, 2022, Journalized No. 111444

Reporter 2022-Ohio-3744 *; 2022 Ohio App. LEXIS 3520 **; 2022 WL 11513556

In the case of In re L.R.-R, what we find most interesting is the nature of the concurrence. The Judge takes the time to write a separate concurrence to describe what they characterize (twice) as “egregious error” in the way the trial court approached the SCRA. Ohio courts do not take mercy on either private-sector individuals or lower-level courts that ignore the protections of the SCRA.

Minamyre:

953 N.E.2d 315 (Ohio 2011) 129 Ohio St.3d 433, 2011-Ohio-3642

BUTLER COUNTY BAR ASSOCIATION v. MINAMYER. No. 2009-2284. Supreme Court of Ohio. July 28, 2011

In Minamyre the concurring opinion written by Justice Lundberg Stratton is particularly compelling. It provides an outstanding description of Traumatic Brain Injury (TBI) and Post Traumatic Stress Disorder (PTSD) in its analysis of the misconduct perpetrated by an Ohio attorney. From the case, the misconduct: ...the board found that respondent had violated DR 1-104 and Prof.Cond.R. 1.4(c) (both requiring a lawyer to inform the client if the lawyer does not maintain professional-liability insurance), DR 6-101(A)(3) and Prof.Cond.R. 1.3 (both requiring a lawyer to act with reasonable diligence in representing a client), Prof.Cond.R. 1.4(a)(3) (requiring a lawyer to keep the client reasonably informed about the status of a matter), Prof.Cond.R. 1.4(a)(4) (requiring a lawyer to comply as soon as practicable with reasonable requests for information from the client), and DR 1102(A)(4) and Prof.Cond.R. 8.4(c) (both prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). We adopt these findings of fact and misconduct.

Based on the length of practice, and in no small degree the honorable service of Minamyre in the U.S. Navy (Reserve), to include a crash onto a ship at sea while riding in a helicopter, the suspension of Minamyre’s license for one year was approved, and suspended: {¶ 77} This is respondent's first disciplinary action in an otherwise unblemished 30-year legal career. Based on the facts of this case, the single incident of misconduct and the extensive mental- health mitigation, I concur in the majority's decision to suspend respondent from the practice of law for one year with the entire suspension stayed on conditions.

Further, because respondent has been actively engaged in treatment and because we can monitor his progress through a stayed suspension, I concur in the monitored-probation portion of the sanction but would hope that the monitoring of his compliance is done with a full appreciation and understanding of his wounds of war.

Schoessler's:

**940 N.E.2d 608 (Ohio App. 12 Dist. 2010) 190 Ohio App.3d 1, 2010-Ohio-4074
FIFTH THIRD BANK, Appellee, v. SCHOESSLER'S SUPPLY ROOM, L.L.C.,
Appellant. No. CA2009-11-153. Court of Appeals of Ohio, Twelfth District,
Warren. August 30, 2010**

Here, after entering into loan agreements with Mr. Ducastel and Schoessler's Supply Room (SSR), Fifth Third Bank called in the loan after default and cognovit judgments were entered against the appellant. The court provides an excellent discussion of the broad latitude demanded in rendering judgments under the SCRA in favor of Servicemembers, ultimately deciding in favor of the appellant.

In re ADOPTION OF W.C., n.k.a. W.B.:

**938 N.E.2d 1052 (Ohio App. 12 Dist. 2010) 189 Ohio App.3d 386, 2010-Ohio-3688
In re ADOPTION OF W.C., n.k.a. W.B. No. CA2010-02-020. Court of Appeals of Ohio,
Twelfth District, Warren. August 9, 2010**

This case provides an excellent illustration of some of the difficulties encountered when world wide military service, and the rules of civil procedure collide. While stationed in Japan, a Servicemember appeared to fail to meet the minimum requirements to maintain contact & a parental relationship with his child. The case overturns & remands a final decree of adoption and removal of the parental rights of a Servicemember.

Miller v. Village of Lincoln Heights:

**967 N.E.2d 255 (Ohio App. 1 Dist. 2011) 197 Ohio App.3d 285, 2011 Ohio-6722
MILLER, Appellee, v. VILLAGE OF LINCOLN HEIGHTS, Appellant. No. C-110276.
Court of Appeals of Ohio, First District, Hamilton. December 28, 2011**

This is an excellent discussion of the complications that can arise when a police officer takes time away from work to perform military service. It contains an unusually detailed discussion of the distinctions between National Guard service, and service in the Active or Reserve components of the U.S. Armed Forces. The potential for bad blood engendered here between Miller and the Village of Lincoln Heights would, as a practitioner, put me on the lookout for a potential USERRA case.

Griffin v. Griffin:**2019-Ohio-5260****AUDREY N. GRIFFIN, Plaintiff-Appellee, v. JAMES A. GRIFFIN, Defendant-Appellant.
No. C-180550 Court of Appeals of Ohio, First District, Hamilton December 20, 2019**

This is another case giving you a good sense of the complications which can arise as a result of pursuing a military career. From September 2012 until October 2016, one or both of the parties resided in and/or moved to Ohio, Tennessee, Rhode Island, Florida, and Maryland. Here the question of domicile and residence in a divorce proceeding show just how difficult it can be to reach finality. Courts in Ohio and Florida were involved, and the fact pattern is sadly typical.

Conclusion:

I hope that I have illustrated to you over the course of our time together the variety of ways in which the military Legal Assistance practice can intersect with your practices here in Ohio, and given you a better understanding of the “hows” and “whys” you may have had about military legal assistance programs in general. Allow me to repeat at this point that none of what I wrote, to include the selection of materials and/or presentation of the materials is done in an official US Government capacity - not the Department of Defense, the Department of the Navy, nor the United States Marine Corps. If you have questions, please feel free to contact me via email. I will try to get back to you as quickly as possible: peter.ferber@thewarriorlawyer.org