

CLERKS' AND WORKERS' GUIDE TO THE SCRA & MILITARY SUPPORT ENFORCEMENT

**Standing Committee on Legal
Assistance for Military Personnel
The North Carolina State Bar
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A. INTRODUCTION

The Servicemembers Civil Relief Act (SCRA), 50 U.S.C. App. 501 *et. seq.*, is the successor statute to the Soldiers' and Sailors' Civil Relief Act (SSCRA), which was initially enacted in 1940. Its purpose is to ensure that servicemembers (SMs) are not placed at a legal or financial disadvantage as a result of their active duty military service to their country. In order to enable servicemembers to devote their entire energy to the defense of the United States, the SCRA provides for several types of relief including the temporary suspension of any judicial or administrative proceedings that may adversely affect the civil rights of a SM. This means that courts and administrative agencies will, as appropriate, order a halt or delay of a proceeding when a SM meets the requirements of the SCRA as set forth below. The SCRA also provides in certain situations for relief from judgments and for the appointment of an attorney to assist the court and the SM in complying with the SCRA.

This Guide has been prepared to explain the SCRA's requirements to courthouse clerks, caseworkers for Child Support Enforcement and other officials involved in the day-to-day enforcement of family support pertaining to persons in the military. The following areas will be highlighted:

- Requirements of the SCRA
- Verifying Military Status
- Requesting a Stay
- Requesting Additional Stays
- Appointing an Attorney
- Setting Aside an Order

B. WHAT DOES THE SCRA DO?

The SCRA offers SMs a number of protections. First, there is a **mandatory 90-day stay of proceedings**. This applies in either of two situations: (1) when a SM has not made an "appearance" in a civil court proceeding (§ 521), or (2) when a SM has notice of a civil court proceedings, but is unable to attend due to the requirements of military duties and requests a stay (§ 522). These stays of civil court proceeding are defined to include a SM's right to stay administrative hearings. The Act does not apply to criminal proceedings.

1. Q. Is making a request for a stay the same as making an "appearance?"

A. No. The SCRA states that a request for a stay is not, in and of itself, an "appearance" for purposes of § 521.

2. Q. So can a defendant in a child support case get a delay in a hearing even if he has had proper notice?

A. That's correct. The SCRA allows for a stay, even when there has been proper notice and the court has jurisdiction.

3. Q. Who is covered?

A. A covered SM is a member of the Army, Navy, Air Force, Marine Corps or Coast Guard who is on active duty, as well as commissioned officers of the Public Health Service and the National Oceanographic and Atmospheric Administration

4. Q. What courts are covered?

A. The SCRA is applicable to any court or administrative agency of the United States, a state or a political subdivision thereof. 50 U.S.C. App. § 511(5).

C. VERIFYING MILITARY STATUS

5. Q. How am I supposed to know whether a party to a lawsuit is in the military?

A. The short answer is that the party filing a new lawsuit or motion in a case is supposed to indicate, in his or her motion or pleadings and also at the hearing, whether the other party is in the military. That is spelled out in the SCRA. Does this happen all the time? No – compliance is not 100%. So court staff and child support caseworkers need to be especially vigilant to make an inquiry to determine if a party is in the military, when a case is called and one party doesn't show up, and when the courthouse is in an area with substantial military population.

6. Q. Why would I bother to check if the person filing the lawsuit doesn't say anything about military status?

A. First of all, it's the right thing to do. It's a professional duty. But also, the hazards of getting it wrong include having to start a case over again from scratch - after many weeks and months of preparation time have gone into a case. That means loss of child support money for a parent, as well as wasted staff time and resources.

7. Q. What are the nuts and bolts of determining military status?

A. Upon application by either side or the court, the Department of Defense (DoD) must issue a statement as to military service. 50 U.S.C. App. § 582. The DoD office to contact for information under the SCRA on whether a person is in the armed forces is the Defense Manpower Data Center (DMDC). For SCRA inquiries, go to the DMDC website at:

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

and enter the last name and Social Security number of the individual. These are mandatory entries; the form on the main page also asks for a first name, middle initial and date of birth (DOB), which will help with the search.

8. Q. How do I get a printed report?

A. To print a report, click on the "LookUp" button, which will open up a second window holding the report generated by DMDC. If the individual is on active duty, the report will show his or her branch of service and beginning date of active-duty status. If DMDC does not have information as to whether the individual is on active duty, the generated report will only list the supplied last name, first name and middle initial (if supplied), with the text:

“Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.”

The report is signed by the DMDC Director.

9. Q. What if we don't know the Social Security Number?

A. If the Social Security number is unavailable, a manual search may be requested by mail, using the birthdate of the individual instead of the SSN. Send a stamped, self-addressed envelope with your request to:

Defense Manpower Data Center [Attn: Military Verification]
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593
Telephone 703-696-6762 or -5790/ Fax 703-696-4156

Further information is available on the “Help” section of the above website.

The World Wide Locator Service is another way to locate military personnel. A SM's address information may be obtained by writing to the World Wide Locator for the appropriate branch of service, go to:

<http://www.defense.gov/faq/pis/PC04MLTR.html>

D. REQUESTING A STAY

10. Q. What is the basis for a stay of proceedings?

A. There are two grounds for getting a stay of proceedings. The first, under 50 U.S.C. App. § 521, is reserved for those cases in which the SM has not made an appearance. The other party must first file an affidavit with the court stating whether or not the SM is in the military. After that, an attorney must be appointed by the court to protect the SM's interests.

11. Q. Then what does the court do?

A. If the court determines that there is (or may be) a defense to the action, the court *shall* grant a 90-day stay upon its own motion or upon application by the appointed attorney. Alternatively, the court must also grant a stay if, after due diligence, the court-appointed attorney has been unable to make contact with the SM or is unable to determine if there is a meritorious defense.

12. Q. What is the second basis for a stay?

A. The stay of proceedings provision of § 522 of the SCRA is for those cases in which the SM needs a stay because military duties prevent him or her from participating in the case. The section mandates a stay of proceedings for **no less than 90 days** upon proper application to the court. There is no requirement to demonstrate that a defense exists.

13. Q. What does the SM have to do to obtain a stay?

A. To request a stay under § 522, the SM needs to submit:

(1) a letter or other communication setting forth facts stating the manner in which **current military duty requirements materially affect** the SM’s ability to appear and stating a date when the SM will be available to appear; *and*

(2) a letter or other communication from the SM’s commanding officer stating that the SM’s **current military duty prevents appearance and military leave is not authorized** for the SM at the time of the letter.

These two requirements may be combined in one letter.¹ The following checklist may be helpful to you.

Checklist for SCRA Stay Request

✓	Elements of a Valid 90-Day Stay Request. Does the request contain...
	A statement as to how the SM’s current military duties materially affect his ability to appear?
	A statement as to a date when the SM will be available to appear?
	A statement from the SM’s commanding officer stating that the SM’s current military duty prevents his appearance?
	A statement that military leave is not authorized for the SM at the time of the statement?

14. Q. If the SM contacts the court and asks about the case, doesn’t that mean that he has notice and the SCRA doesn’t apply?

A. Not, at all. Just because you received a call or letter from a SM inquiring about his case and asking about a stay, do not assume that he has notice and has to appear. As we mentioned earlier, the SCRA is not about legal notice of a hearing – it is about extra rights for the SM.

E. REQUESTING ADDITIONAL STAYS

15. Q. Can a SM ask for an additional stay?

A. Yes. An application for an additional stay may be made at the time of the original request or later.

16. Q. Is there a special procedure for requesting additional stays?

¹ There is no indication that either of these must be in contained in a formal letter or affidavit or, for that matter, in any particular format whatsoever. Sample letters can be found in Appendix D

A. A SM may apply for an additional stay in the same manner as the initial 90-day stay and at any time “it appears that the SM is unavailable to prosecute or defend.”

17. Q. Does the court have to grant those requests?

A. The court has the power to deny requests for additional stays above and beyond the 90-day mandatory period. However, if the court denies a request for an additional stay, the SCRA requires the court to appoint counsel to represent the SM in the action or proceeding.

F. APPOINTING AN ATTORNEY

18. Q. When does the court have to appoint an attorney?

A. The court must appoint an attorney on behalf of the SM in the following two distinct situations:

(1) Under § 521 of the SCRA, the plaintiff should file an affidavit with the court stating whether or not the defendant is in the military. If the affidavit affirms the defendant’s military status, an attorney must be appointed by the court to protect the SM’s interests.

(2) Under § 522 of the SCRA, if the court refuses to grant an additional stay after the initial mandatory 90-day stay, then the court must appoint counsel to represent the SM in the action.

19. Q. Why does the judge have to appoint an attorney? What if the SM isn’t deployed overseas?

A. The status of the SM – deployed or in garrison – isn’t an issue under the Act. It simply doesn’t matter. Nor does it matter whether the SM is an officer or enlisted or whether he can or cannot afford to hire a lawyer. What matters is whether that person is on “active duty.”

20. Q. We don’t have enough attorneys on our indigent appointment list to cover all these appointments. What can we do?

A. Who said anything about being indigent? This is not an indigent issue. The court must appoint an attorney to help sort out the initial issues. This means going out to see why a SM is not present for court and whether he/she might have a valid defense against the court action that is at risk of being lost by his/her failure to appear in court. It’s not an issue of finances – an admiral has the same rights as a seaman. Petty officers and privates are treated the same. Furthermore, the SCRA doesn’t apply in criminal cases; this is a civil matter, and there’s no connection with the list of attorneys to be appointed for criminal cases.

21. Q. Then who is supposed to pay for these appointed attorneys, and how are they picked?

A. An excellent question. But don’t look to the SCRA for an answer; there aren’t any in the act. The answer may be similar to jury duty – we all have to take our turn at it, and perhaps some pro bono work will be necessary for lawyers who appear before the court. From experience, the

judges need to find some mechanism of their own for filling this need. This might be a matter in which being an “officer of the court” comes with some social responsibilities, and perhaps judges faced with this problem could find creative ways to implement this unfunded mandate. Conceivably, local bar associations could be used as a conduit for appointing appropriate lawyers. In any case, there is no simple answer except that a lawyer *must* be appointed.

22. Q. What about the additional stay request – does the judge have to appoint an attorney if the additional stay request is denied?

A. Yes - if the court refuses to grant an additional stay, then an attorney must be appointed to represent the SM. 50 U.S.C. App. § 522(d)(2). Since this could be a much more involved matter than with an initial stay, the judge should carefully think through the decision as to whom to appoint.

G. DEFAULT JUDGMENTS

23. Q. What happens if a SM does not appear and the judge grants a default judgment?

A. If a judgment has been entered against the SM during his period of military service (or within 60 days after the end of service), the judgment can be reopened.

24. Q. What are the rules for reopening a default judgment?

A. The court shall reopen the judgment to allow the SM to defend if:

(1) The SM was materially affected as a result of his military service in asserting a defense;

(2) The SM has a meritorious or legal defense to the action or some part of it, so long as the application is filed within 90 days after the end of military service. 50 U.S.C. App. § 521(g);
AND

(3) The SM did not knowingly and voluntarily waive his rights under the SCRA. This is covered in 50 U.S.C. App. § 517. A waiver of SCRA rights is only effective if it is made during the period of military service.

25. Q. What does the SM have to show the judge to do this?

A. The SM must prove to the judge that, at the time the judgment was rendered, he was prejudiced in his ability to defend himself due to military service. In addition, he must show that there is a meritorious or legal defense to the initial claim.

26. Q. What does a SM need to put in this motion or petition?

A. To reopen a default judgment or order, a motion or petition to reopen a default judgment or order should clearly state the SM’s defense.

27. Q. Are there any other suggestions?

A. When you are faced with the potential for such a motion, you should take it seriously. You should try to find a way to work with the SM to resolve a dispute in lieu of reopening judgment, if possible. For example, in a child support case in which paternity was established by default and is being challenged by the soldier who happens to be out of the country, you could facilitate the collection of a DNA sample from the soldier at his foreign duty station, rather than insisting that he return to the U.S. for testing, and be prepared to move to lift the judgment if it comes back negative. If it comes back positive, then the only issue would be a determination of the amount of child support allowed under state guidelines (or in a variance).

H. WHERE CAN I GET HELP?

Office of Child Support Enforcement (OCSE) Military Liaison

The OCSE military liaison officer is Larry Holtz, whose duties include working with the DoD on child support related statutes and regulations, providing guidance to child support agencies on military matters, and resolving issues between DoD and CSE agencies. You may contact him at:

Larry Holtz
Court and Military Liaison Officer
Office of Child Support Enforcement, 4th floor
370 L'Enfant Promenade, SW
Washington, DC 20447
Phone: (202) 401-5376
Fax: (202) 205-4342
Email: larry.holtz@acf.hhs.gov

Attachment A: Websites and On-line Resources

1. CHILDREN SERVICES:

Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement: Working with the Military as an Employer, A Quick Guide (Updated April 2010.) In an effort to assist states in their interaction with the military, the federal Office of Child Support Enforcement (OCSE) has prepared this resource document. The purpose of this document is to provide policy and procedural guidance to child support staff working with the military.

http://www.acf.hhs.gov/programs/cse/newhire/employer/publication/military_quick_guide.pdf

2. MILITARY LEGAL WEBSITES: General Information

a. The Armed Forces Legal Assistance Website

<http://legalassistance.law.af.mil/index.php>

The Armed Forces Judge Advocate Generals' Corps is comprised of the Legal Assistance divisions of all of the services who maintain this site in a joint effort to provide the best information for our men and women of the armed forces and their families. The site contains a legal services locator which will give you the address and phone number for legal services nationwide. It also will direct you to those offices in your area using zip code or location.

b. Military OneSource

<http://www.militaryonesource.com>

The Military OneSource interactive Web site includes locators for education, child care, and elder care. You can also go online to order free materials (including CDs, and booklets, and DVDs), get referrals to military and community resources, use financial calculators, participate in online Webinars, subscribe to monthly newsletters, and join our discussion boards. Additional resources include brief videos of consultants addressing common issues such as communicating as a couple, budgeting and managing anger.

c. ABA Section of Family Law, Military Committee.

www.abanet.org/family/military

The best source of quick information on the SCRA is “A Judge’s Guide to the SMs Civil Relief Act,” and other relevant topics. The site also contains the “Silent Partner” series and other publications of the Committee that may be helpful.

- d. North Carolina State Bar Standing Committee for Legal Assistance to Military Personnel (LAMP).

<http://www.nclamp.gov>

- e. Army JAG School Publications

www.jagcnet.army.mil

The Army JAG School’s SCRA guide is available on-line at the school’s website. Click on “TJAG Legal Center & School (TJAGLCS)” on the left side of the home page. Then click on “TJAGLCS Publications” in the right column of the pop-up window. Scroll down to the document labeled “The Service Members Civil Relief Act Guide (Emily Colman)” dated 9/29/2010 and to the document labeled “Service Member Civil Relief Act Guide (Emily Colman)” dated 9/29/2010 and click their links to access the documents.

3. MILITARY LOCATORS:

- a. Department of Defense Public Website:

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

This website will provide you with the current active military status of an individual. There is no charge for this certificate.

- b. Addresses for individual services queries:

<http://www.defense.gov/faq/pis/PC04MLTR.html>

You can also receive certificates from the individual Services by sending your correspondence to the appropriate military office listed below. If other than current status needs to be verified, then you need to send your request direct to the Services listed below:

United States Army

The United States Army is no longer providing this service.

Navy Active Duty

Navy World Wide Locator
Navy Personnel Command (PERS 1)
5720 Integrity Drive
Millington, TN 38055
Phone: (866) 827-5672

<http://www.npc.navy.mil/AboutUs/NPC/CSC/NavyLocator.htm>

Air Force Active Duty

HQ AFPC/DPDXIDL
5550 C. Street West, Suite 50
Randolph AFB, TX 78150-4752
Phone: (210) 652-5775

https://gum.afpc.randolph.af.mil/cgi-bin/askafpc.cfg/php/enduser/acct_login.php

Marine Corps

Headquarters U S Marine Corps
Personnel Management Support Branch (Mmsb-17)
2008 Elliot Road
Quantico, Va 22134-5030
Phone: (703) 784-3941/ 3942/ 3943

US Coast Guard

Commander Personnel Service Center
U.S. Coast Guard Stop 7200
4200 Wilson Boulevard, Suite 1100
Arlington, VA 20598-7200
Email: Send an email with the person's full name to cglocator@ballston.uscg.mil

Attachment B: Judge's Checklist

The Servicemembers Civil Relief Act: A Judge's Checklist

The SCRA is located at 50 U.S.C. Appendix § 501 *et seq.* In using this checklist, keep in mind the purpose of the Act: to enable SMs (SMs) to devote their entire energy to the defense needs of the nation, and to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of SMs during their military service. 50 U.S.C. App. § 502

✓ **Who is covered?** (50 U.S.C. App. § 511) Those covered include:

- o Members of the Army, Navy, Air Force, Marine Corps and Coast Guard on active duty under 10 U.S.C. 101(d)(1)
- o National Guard members called to active duty by President or Secretary of Defense for over 30 days under 32 U.S.C. 502(f) (national emergency declared by the President and supported by federal funds)
- o Commissioned members of the Public Health Service and the National Oceanographic and Atmospheric Administration

✓ **Default situation** – (50 U.S.C. App. § 521). When no appearance by SM (SM), you -

- o1. Must require affidavit of military status by moving party (who may check on whether missing party is in military service by requesting check of records by Dept. of Defense**)
- o2. Must appoint an attorney before entry of judgment if the non-moving party is in military
- o3. Must grant a stay of proceedings for at least 90 days when non-moving party is in military if -
 - a. there may be a defense, and presence of SM is needed to make it, OR
 - b. with due diligence, appointed attorney can't contact client or otherwise determine whether defense exists

✓ **Use of bond?** (50 U.S.C. App. § 521(b)(3))

- o As condition of entry of default judgment, require bond if you cannot determine whether defendant is in military service.
- o Bond may be used to indemnify non-moving party against loss/damage from default judgment (if later set aside) should he/she later be found to be in the military.

✓ **Request for stay** – SM or attorney requests suspension of case (50 U.S.C. App. § 522)

- o Grant stay of proceedings (discretionary on court's own motion, mandatory on SM's motion) for at least 90 days if motion includes-
 - 1. Statement as to how the SM's current military duties materially affect his ability to appear, and that
 - 2. stating a date when the SM will be available to appear, and

* Upon application by either side or the court, the military service must issue a statement as to military service. 50 U.S.C. App. § 582. Contact: Defense Manpower Data Center, 1600 Wilson Blvd., Suite 400, Attn: Military Verification, Arlington, VA 22209-2593, [telephone 703-696-6762 or -5790/fax 703-696-4156]

- 3. Statement from the SM=s commanding officer that SM=s current military duty prevents his appearance, and
- 4. military leave is not authorized for the SM at the time of the statement

✓ **Grant additional stay (beyond initial 90 days)?**

- o Yes if continuing material effect of military duty on SM’s ability to appear.
- o Same information required as above.

✓ **Deny additional stay?**

- o Only if you appoint attorney to represent the SM in the action or proceeding (50 U.S.C. App. § 522(d)(2)).
- o Expect attorney to renew stay request since he/she cannot prepare, present case without assistance from the unavailable SM.

✓ **Unsure whether to grant or deny additional stay?**

- o Ask for a copy of the SM’s current LES (Leave and Earnings Statement), issued twice a month, to see how much leave SM has accrued, used in the past few months.
- o Propound questions from the court to SM’s commanding officer as to duty hours, days for the SM, his or her availability to attend court or to participate by telephone, Internet or videoteleconference

✓ **Execution of orders, judgments** (50 U.S.C. App. § 524)

- o Must stay execution of any judgment, order entered against SM if the SM shows military duties materially affect his/her ability to comply with court decree
- o Also vacate or stay any attachment or garnishment of property, money or debts in possession of the SM or third party

✓ **Anticipatory relief** (50 U.S.C. App. § 591)

- o Grant relief from obligation or liability incurred by SM before his/her military service
- o Also for tax or assessment falling due before or during the SM’s military service

✓ **Reopen judgment** (50 U.S.C. App. § 521(g))

- o Must reopen order, judgment against SM if –
 1. SM was materially affected due to military service in asserting defense, and
 2. He/she has meritorious defense

✓ **Are waivers allowed?** (50 U.S.C. App. § 517)

- o Only effective if made during period of military service.
- o Usually must be in writing (and, in most cases, in 12-point font or larger).

✓ **Don’t penalize SM in stay request.** (50 U.S.C. App. § 522(c))

- o Request for stay does not constitute appearance for jurisdictional purposes
- o Also doesn’t constitute waiver of any defense, substantive or procedural

✓ **Statute of limitations** (50 U.S.C. App. § 526)

o Period of military service may not be included in computing any limitation period for filing suit, either by or against SM.

✓ **Protect against mortgage foreclosure** (50 U.S.C. App. § 533)

o Court may stay foreclosure proceedings until SM can answer, extend mortgage maturity date to allow reduced monthly payments, grant foreclosure subject to being reopened if challenged by SM, or extend the period of redemption by period equal to the SM's military service.

o Conditions for above: if –

1. Relief is sought on security interest in real/personal property
2. Obligation originated before active duty
3. Property owned by SM or dependent before active duty
4. Property still owned by SM or dependent
5. Ability to meet financial obligation is materially affected by SM's military service
6. Action is filed during (or within 90 days after) SM's military service. (50 U.S.C. App. § 533)

✓ **Protect SM-tenant.** (50 U.S.C. App. § 531-532, 535)

o Allow SM to terminate leases upon entry on active duty or receipt of military orders for deployment (not less than 90 days) or transfer to another base.

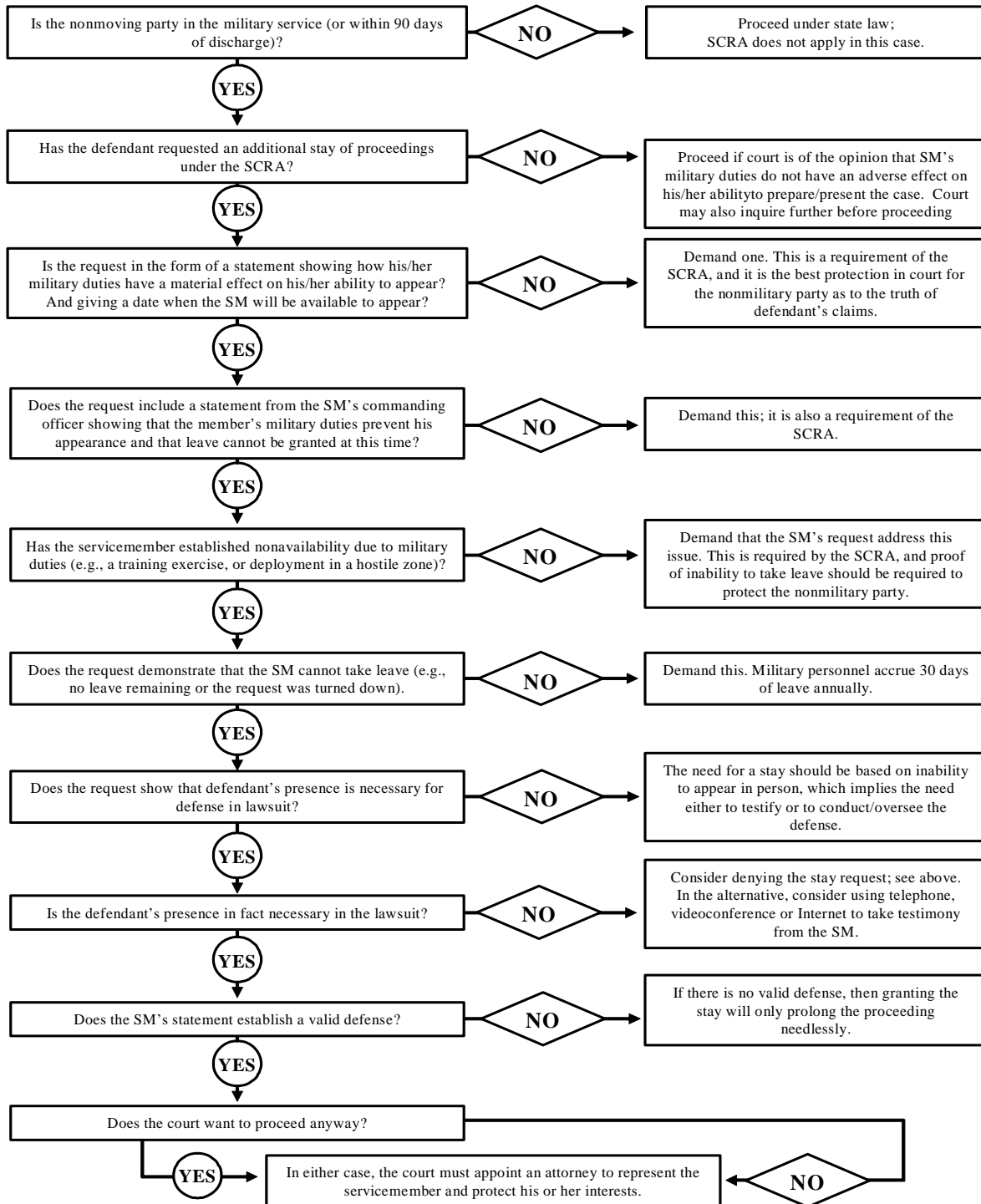
o Grant a stay of eviction upon application by SM-tenant who shows that ability to pay rent is materially affected by military service. (50 U.S.C. App. § 531(b))

o If the rent is paid in advance, require landlord to refund unearned portion. The SM is required to pay rent only for those months before the lease is terminated. (50 U.S.C. App. § 535(f))

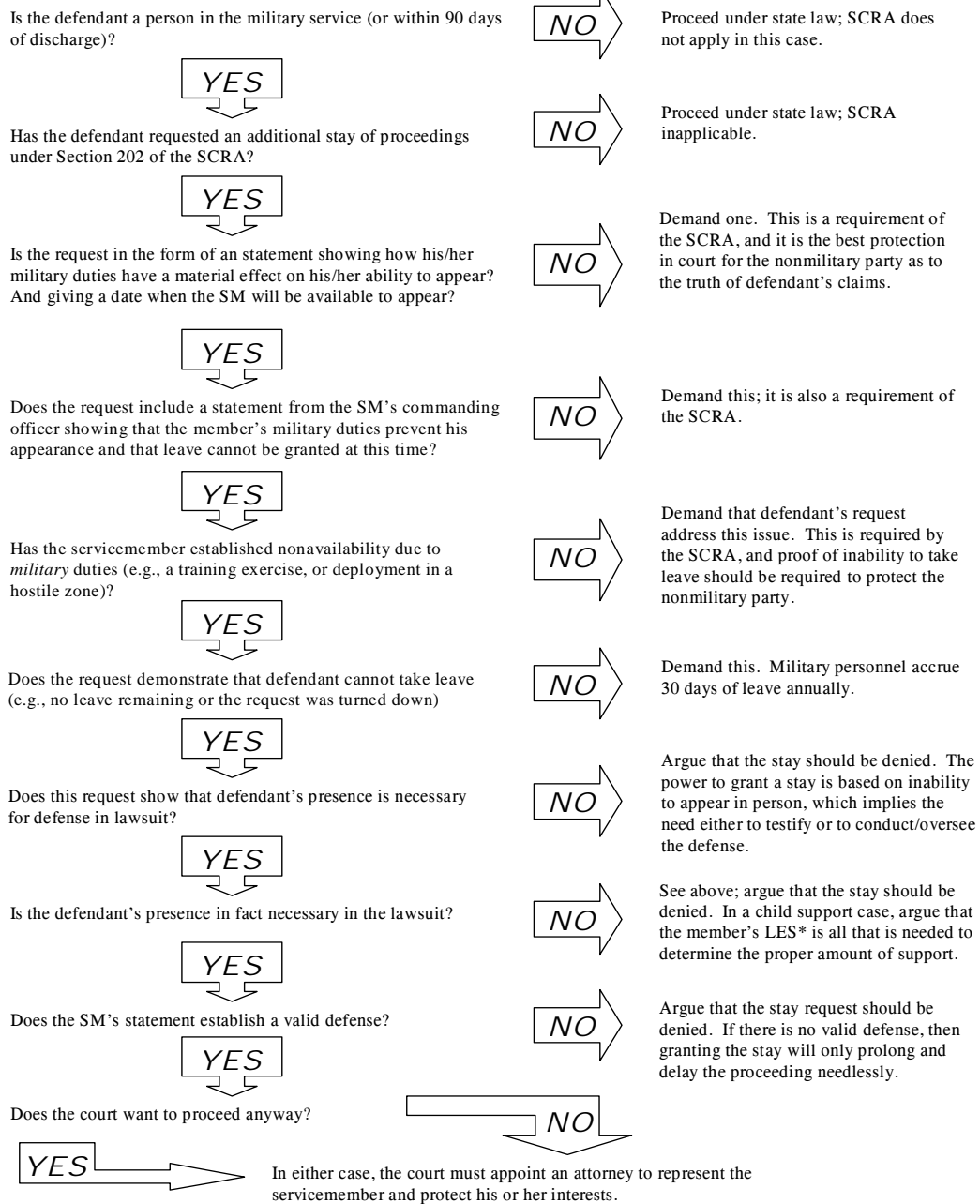
o It is a misdemeanor for a landlord to seize, hold or detain the security deposit or personal property of a SM or dependent when there is a lawful lease termination under the SCRA, or to knowingly interfere with the removal of said property because of a claim for rent after the termination date. A security deposit must be refunded to the SM upon termination of the lease. 50 U.S.C. App. § 535(h)(1).

Attachment C: Flow Charts

ATCH 3 - SCRA Flow Chart for "Additional Stay"



SCRA Flow Chart for Opposing “Additional Stay”



*LES=Leave and Earnings Statement

Attachment D: Sample forms and letters

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Sample motion for stay of proceedings under Servicemembers Civil Relief Act (SCRA)

[HEADING OF CASE]

MOTION FOR STAY OF PROCEEDINGS

Pursuant to the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. App. § 522, the defendant moves this court for [an initial 90-day stay of proceedings][a further stay of proceedings], showing that his ability to defend herein is materially affected by his military duties. In support of this motion and in compliance with the SCRA, the defendant has included --

As Encl #1, a letter or other communication that:

- >states how current military duty requirements materially affect the defendant=s ability to appear, and
- >gives a date when the defendant will be available to appear; and

As Encl #2, a letter or other communication from the defendant's commanding officer stating that:

- >the defendant's current military duty prevents his appearance, and
- >that military leave is not authorized for him at the time of the letter.

WHEREFORE the defendant prays that this court grant him a stay of proceedings until [date] and such other relief as is just and proper.

Date:

Janet A. Smith, Attorney for Defendant
123 Bartlett Street, Salisbury, NC 26799
919-555-1234

.....

[Notes: While this motion is written by the defendant's attorney, the SCRA mentions the "application of the SM," which means the SM or his legal representative could file the motion, application, petition or other document requesting a stay of proceedings. The "SM's legal representative" would be his lawyer (civilian or military attorney) or an individual who holds his power of attorney. It may be addressed to the court, the clerk, the presiding judge, the defendant=s attorney, or the opposing counsel.

The statute appears to call for two statements, but the information required may be conveniently combined into *one* statement if that comes from the SM's commanding officer. While the examples here are two statements which give limited information, a good letter

should set out the facts in detail -- not merely conclusions -- as to how the defendant=s military duties adversely affect his ability to prepare and present the case, including appearances at depositions, responses to interrogatories and document requests, and appearance at trial. Although not required by the SCRA, it is a wise idea to set out how much leave the defendant has accrued, whether he has asked for leave, how much leave was requested, and whether the request has been approved or denied, including who approved or denied it, the date of such action, the limitations, if any, on an approved leave, etc. The purpose of this is to show that the defendant is exercising good faith and due diligence in his stay application, rather than using it purely for tactical advantage.]

Encl #1

Sergeant Leopold Legume, SSN 123-45-6789
Company C, 3d Battalion
123d Underground Balloon Regiment
V Corps, U.S. Army
APO AE 91099

[date]

TO WHOM IT MAY CONCERN:

My current military duty requirements materially affect my ability to appear in the following manner:

I am serving as a truck driver at Camp Cobra, Iraq. My tour of duty is for at least 360 days, beginning June 1, 2011. I was recalled to active duty in the U.S. Army from my assignment in the Army Reserve, which is the 122d Transportation Battalion, Salisbury, North Carolina. I am in the field every day of the week, and I am unavailable to appear at my hearing on child support. I have asked for one week=s leave in order to fly back to North Carolina and attend the hearing. This was denied by my commander.

I need to be personally present in court on my hearing date of July 15, 2011, to testify as to my compensation, both civilian (before the Reserve call-up) and military (a substantial reduction from my civilian pay), my reasonable living expenses (before and after the call-up) and certain bills of the plaintiff that I have taken over at her request since the last child support order herein that would constitute grounds for a variance from the Child Support Guidelines. I will be available to appear on or after July 15, 2012.

[signature of defendant]

.....

Encl #2

Major Regina Richards, Commander
Company C, 3d Battalion
123d Underground Balloon Regiment
V Corps, U.S. Army
APO AE 91099

[date]

TO WHOM IT MAY CONCERN:

1. I am the commanding officer of SGT Leopold Legume, SSN 123-45-6789.
2. His current military duty prevents his appearance in court on July 15, 2011.
3. He has requested one week=s leave for this court appearance. I denied his request, and military leave is not authorized for him at this time.

[signature of commanding officer]
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