More Rights, Stronger Remedies: How The Dole Act Enhances USERRA Protections For Service Members In The Civilian Workforce

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Employees who serve in the military should not have to choose between answering their nation's call and protecting their civilian careers. For more than 30 years, the Uniformed Services Employment and Reemployment Rights Act (USERRA) has provided important protections against discrimination and ensured that service members can return to their civilian jobs following military service.

Since USERRA's enactment in 1994, USERRA has served as the nation's primary law protecting the civilian employment rights of military service members, but recent legislative changes have significantly expanded those protections and the remedies available to those whose rights are violated.

USERRA protects service members from discrimination and retaliation based on military service and provides reemployment rights following periods of military duty. The law can apply to hiring decisions, promotions, compensation, pension benefits, health coverage, layoffs, seniority, and other terms and conditions of employment. Employers generally must place returning service members in the position

they would have attained had their employment not been interrupted by military service, often referred to as the “escalator principle.”

Now, a new law, in addition to USERRA protections, the Dole Act, strengthens those protections by expanding available remedies, enhancing enforcement mechanisms, and making it easier for service members to recover attorney fees when their employment rights have been violated. As a result, military personnel, veterans, National Guard members, and Reservists have greater tools available to enforce their rights and hold employers accountable under USERRA.

WHAT IS THE DOLE ACT?

The Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act (Dole Act) expands available remedies and improves access to attorney fee awards for successful claims, and provides service members, veterans, National Guard members, and Reservists with more powerful tools to protect their employment rights.

Following years of advocacy by veterans’ groups, the Dole Act was signed into law on Jan. 2, 2025 and aims to provide increased relief to veterans and their families. The Dole Act contains a wide range of veterans’ benefits provisions, but also substantially strengthens several aspects of USERRA, making USERRA the strongest possible employment protection law in federal law.

The Dole Act also makes it easier for service members to obtain double damages in appropriate cases. Previously, a claimant generally had to establish that a USERRA violation was willful before liquidated damages were available. The Dole Act broadened those remedies by permitting liquidated damages where the employer knew or showed reckless disregard as to whether its conduct violated USERRA, making enhanced damages available in a wider range of cases.

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HOW CAN THE DOLE ACT BENEFIT ME?

The Dole Act was designed to improve benefits, health care, caregiver support, education, housing assistance, and other services available to veterans, service members, survivors, and their families. Among the key provisions within the Act include:

- The VET-TEC Authorization Act (H.R. 1669) which fully funds the VA VET-TEC educational assistance program to expand high-tech career opportunities for veterans and transitioning servicemembers.
- Expanded access to home- and community-based services at every VA medical center, which would allow severely ill and aging veterans the dignity of receiving increased in-home care.
- Improvement of the timeliness and quality of care and services delivered to veterans under community care by improving the rate at which community care providers return medical records to the VA.
- Increase of the grant and per-diem rate for veteran homelessness providers who partner with VA and provide rideshares to veterans for medical, housing, and employment appointments.
- Veterans Education Assistance and Improvement Act (H.R. 3874), which cuts through red tape for the GI Bill and allows student veterans to use their benefits that best meet their needs.
- Modernization of USERRA protections and increased accountability at the Department of Labor so that deployed National Guard and Reservists have the proper employment protections in place back when they return home. This also includes reimbursing fees for successful claims (including attorney fees) and including a GAO report on the use of USERRA in the intelligence services.
- Inclusion of the COPE Act (H.R. 3581) which would recognize the mental strain often experienced by caregivers of certain veterans by providing community mental health grants.
- Ability for survivors of certain veterans who choose to die at home or while in receipt of VA hospice care, to receive a certain burial and funeral allowance.
- VA grants to state and Indian Tribes to support county Veteran Service Organizations (VSOs) and tribal VSOs to provide improved outreach and assistance to underserved, rural, and Native American veterans regarding VA benefits.

- Updated IT systems and processes to ensure that disability examination reports completed by contracted disability examiners are standardized and machine-readable to improve efficiency.
- Requirement of all new VA employees to receive training on reporting wrongdoing and cooperating with the VA Inspector General.
- Requirement for the VA to conduct surveys at each of their facilities on security weaknesses and the status of their police forces.

Further, the Act supports surviving families with expanded education benefits and removes barriers to benefits for surviving spouses, in addition to combating veteran homelessness through increased funding for housing, transportation, and caregiver support.

For federal employees, the Dole Act also expanded procedural protections by strengthening avenues for review of USERRA claims before the Merit Systems Protection Board and the U.S. Court of Appeals for the Federal Circuit. These changes provide federal employees and applicants with additional opportunities to challenge adverse decisions and seek review of potential violations.

ATTORNEY FEES

Unlike the prior framework, the Dole Act generally requires courts to award reasonable attorney fees and litigation expenses to prevailing USERRA plaintiffs. This reduces the financial burden associated with bringing a claim and encourages enforcement of military employment rights.

Notably, for veterans with USERRA claims or actions before the Merit Systems Protection Board (MSPB), the section of the Dole Act regarding employment and training improvements includes a provision that allows for reimbursement of fees for successful claims, including attorney fees.

The Act also states that in cases before the MSPB, the Board “may, in its discretion, award reasonable attorney fees in a case settled before the issuance of an order if the person can demonstrate that significant attorney fees were incurred, and that justice requires such an award.”

The same goes for state and private employers under the Act, stating that “the court shall award any such person who prevails in such action or proceeding reasonable attorney fees.”

OTHER IMPORTANT DOLE ACT CHANGES TO USERRA

In addition to expanding attorney fee recovery and enhancing available damages, the Dole Act made several other important changes to USERRA. The Act broadened anti-retaliation protections by prohibiting not only adverse employment actions, but also other forms of retaliatory conduct against individuals who assert their USERRA rights. It also strengthened enforcement options by making preliminary injunctive relief more accessible in appropriate cases, allowing service members to seek court intervention before a case is fully resolved.

In addition, the Act expanded potential monetary recovery by authorizing prejudgment interest on certain awards. Finally, Congress amended USERRA's statement of purpose by removing the term "noncareer service," making clear that the law's protections extend fully to all members of the uniformed services, including career Reservists and long-serving National Guard members. Collectively, these changes reflect Congress's intent to provide broader and more effective protections for those whose civilian careers are impacted by military service.

EXAMPLES OF POTENTIAL USERRA VIOLATIONS

- Refusing to hire an applicant because of National Guard obligations.
- Denying promotions due to military absences.
- Failing to restore a returning Reservist to the position they would have attained but for military service.
- Reducing pension or seniority benefits because of military leave.
- Retaliating against an employee who asserts USERRA rights.

WHY EMPLOYERS SHOULD PAY ATTENTION

Employers should review military leave, reemployment, promotion, and anti-discrimination policies to ensure compliance with USERRA. Because the Dole Act expands available remedies and increases the likelihood of attorney fee awards, employers may face greater litigation exposure when military-service obligations are not properly accommodated.

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HOW THE DOLE ACT PROVISIONS RELATED TO USERRA CAN HELP YOU

Although USERRA was enacted to protect service members from employment discrimination and safeguard their reemployment rights, the Department of Labor's Veterans' Employment and Training Service (VETS) received 1,256 new USERRA complaints in FY 2025, the highest annual total since FY 2014, according to the FY 2025 DOL USERRA Annual Report to Congress. Of those complaints, only 58 cases were referred to the Department of Justice for potential enforcement.

Why? The Department of Justice routinely declines representation unless the employer has practically "built the case against itself" with clear, written admissions of military discrimination. Notably, 99% of veterans must use an attorney in private practice.

This is why it is important to note that the Dole Act benefits a broad range of employees who serve in the military, including:

- active-duty service members;
- National Guard members;
- Reservists;
- veterans returning to civilian employment;
- employees with ongoing military training obligations;
- federal and private-sector employees who are called to military service;
- individuals pursuing USERRA claims based on discrimination, retaliation; and
- reemployment, compensation, benefits, or promotion disputes.

For decades, many service members faced a difficult choice when considering whether to pursue a USERRA claim because the cost of litigation often outweighed the available recovery. By expanding the availability of attorney fee awards and strengthening enforcement mechanisms, the Dole Act helps level the playing field and makes it easier for military personnel to vindicate their employment rights when those rights are violated.