



VOTING ISSUES FOR MILITARY MEMBERS



The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

Residency for voting purposes

Only United States Citizens over the age of 18 may vote in elections in the United States, and in order to vote in any particular election, a citizen must be registered with the appropriate voting office or board of elections. Although the states have different registration requirements, most require proof of age and residence within that jurisdiction.

Federal law guarantees that servicemembers' state of legal residency (domicile) shall not be lost solely due to absence from that state in compliance with military orders. Section 4025 of the Servicemembers Civil Relief Act (SCRA) provides in part that military service in a particular state, without more, does not establish residency in that state for Federal, state or local voting purposes. (However, a servicemember may become a legal resident of a state in which he/she is located by intending to make that state his/her permanent residence, as evidenced by registering to vote in that state, paying income taxes in that state, obtaining a drivers' license in that state, and through other means.)

The same protection now applies to servicemembers' spouses under the Military Spouses Residency Relief Act (MSRRA), which amended the SCRA. Under Section 4025 of the SCRA, a military spouse who is present with a servicemember in a particular state in compliance with military orders does not lose his/her legal residence in another state. However, the MSRRA does not allow a spouse to pick or chose a domicile in just any State. Domicile is established, not arbitrarily chosen. The spouse must have actually been present in the state, established it as his or her domicile, and maintained it by forming and maintaining the necessary contacts, such as registering to vote, owning property, registering vehicles, holding professional licenses, declaring a homestead, or indicating a state of probate in a last will and testament. Similarly, the MSRRA does not allow a spouse to "inherit" or assume the servicemember's domicile upon marriage without the necessary contacts with the state.

The MSRRA is complicated, and because its effect will depend on the interpretations of each state, servicemembers and their spouses are encouraged to seek free, confidential advice from a military legal assistance office.

The Federal Voting Assistance Program (FVAP)

Military members on active duty may decide to vote using absentee ballots, which are available from local election boards, or in some cases, online. The FVAP is designed to help servicemembers register and vote by absentee ballot. Registered voters can fill out the absentee ballot, and mail it to the appropriate jurisdiction by the applicable deadline, and be counted. Visit the FVAP website at <http://www.fvap.gov/> or contact your unit's local Voting Assistance Officer for more information.