

# An Act

ENROLLED HOUSE  
BILL NO. 2545

By: Burns, Kannady, Steagall  
and Fugate of the House

and

Simpson of the Senate

An Act relating to state military forces; amending 44 O.S. 2011, Section 208, as amended by Section 204, Chapter 408, O.S.L. 2019 (44 O.S. Supp. 2020, Section 208), which relates to discrimination against members of state military forces; updating language; enacting the Oklahoma Uniformed Services Employment and Reemployment Rights Act; declaring applicability of act; defining terms; stating purposes of the act; construing provisions of act; declaring act to supersede certain laws and other documents; defining terms; specifying eligibility and entitlement to act benefits; prohibiting denial of certain employment for person with service in state military forces; barring discrimination against certain employee; providing for applicability to specified employment; establishing reemployment rights and benefits for certain employees; requiring advance written or verbal notice to employer; providing an exception; permitting employer to not reemploy employee in certain circumstances; directing employee to provide notice of intent to return; specifying timing requirements for notice; requiring documentation for reemployment application; barring rights if person has a superior claim; directing prompt reemployment; describing priority for reemployment; giving priority to person who left the position first; establishing procedures for reemployment in state government; directing oversight by the Director of Human Capital Management; prescribing duties of Director; providing for employment in another state agency; mandating administrators of public entities to establish procedures for act; listing minimum content of procedures; providing for certain annual report;

providing an exception; construing provisions; requiring offer of employment for certain employees; prescribing seniority for certain reemployed persons; establishing conditions for persons absent from employment; prohibiting certain discharge from reemployment; providing exceptions; permitting employee to use accrued leave time; mandating an authorized leave of absence; allowing person to continue employer health plan coverage; specifying procedures for coverage continuation; prescribing applicability of act to foreign employer; providing for determination of controlling employer; exempting compliance for certain employers; directing Commissioner of Labor to assist with rights and benefits of the act; providing for filing a complaint with the Commissioner; prescribing contents of complaint; requiring notification be given to complainant within specified time; directing Commissioner to investigate complaints; prescribing attempt to resolve complaint; mandating notification to complainant within certain time; allowing complainant to request referral to the district attorney; specifying procedures for referrals; prescribing jurisdiction and venue; authorizing court to award remedies; authorizing court to use equity powers; establishing standing for violations of the act; limiting party who can be a respondent; prohibiting complainant from paying fees or court costs; providing for award of certain fees and expenses; defining term; granting access to persons and documents for purpose of investigations; authorizing subpoena powers; allowing remedy for disobeying subpoena; establishing jurisdiction for certain writs; excluding applicability to certain employers; permitting extension of time for state officials; exempting claims from any statute of limitations; authorizing prescribing regulations to implement the provisions of this act; directing annual report of complaints; providing an exception; requiring certain officials to take actions to inform employees of rights under this act; mandating employer to provide certain notice; providing for content of notice; directing training for state employee human resources personnel; providing for development and frequency of training; defining term;

amending 72 O.S. 2011, Section 48.1, which relates to a leave of absence; extending remedies to a certain leave of absence; mandating protections for private-sector officers and employees; defining term; providing for codification; and declaring an emergency.

SUBJECT: State military forces

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 44 O.S. 2011, Section 208, as amended by Section 204, Chapter 408, O.S.L. 2019 (44 O.S. Supp. 2020, Section 208), is amended to read as follows:

Section 208. No person shall discriminate against any officer or enlisted member of the National Guard or Civil Air Patrol or a judge carrying out his or her duties as a member of the Military Court of Appeals because of his or her membership therein. No person shall prohibit or refuse entrance to any officer or enlisted member of the Uniformed Services of the United States Armed Forces, or of the state military forces ~~of this state~~, into any public entertainment or place of amusement because such officer or enlisted member is wearing a uniform of the organization to which he or she belongs. No employer, officer or agent of any corporation, company, firm or other person, shall discharge any person from employment because of being an officer, warrant officer or enlisted member of the military forces of the state, or hinder or prevent him or her from performing any military service he or she may be called upon to perform by proper authority, in respect to his or her employment, trade or business. Any person violating any of the provisions of this section, shall be punished by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4300 of Title 44, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 24 of this act shall be known and may be cited as the "Oklahoma Uniformed Services Employment and

Reemployment Rights Act". The Oklahoma Uniformed Services Employment and Reemployment Rights Act shall be applicable to members of the state military forces while serving on state active duty or Title 32 active duty. "State military forces", "state active duty" and "Title 32 active duty", for the purposes of the Oklahoma Uniformed Services Employment and Reemployment Rights Act, shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4301 of Title 44, unless there is created a duplication in numbering, reads as follows:

The purposes of the Oklahoma Uniformed Services Employment and Reemployment Rights Act are:

1. To encourage noncareer service in the state military forces by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

2. To minimize the disruption to the lives of persons performing service in the state military forces as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of service; and

3. To prohibit discrimination against persons because of their service in the state military forces.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4302 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Nothing in the Oklahoma Uniformed Services Employment and Reemployment Rights Act shall be construed to supersede, nullify or diminish any federal law or state law, including any county or municipal law or ordinance, contract, agreement, policy, plan, practice or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

B. The Oklahoma Uniformed Services Employment and Reemployment Rights Act supersedes any other state law, including any county or municipal law or ordinance, contract, agreement, policy, plan,

practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by the Oklahoma Uniformed Services Employment and Reemployment Rights Act, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4303 of Title 44, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Uniformed Services Employment and Reemployment Rights Act:

1. "Adjutant General" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes;

2. "Benefit", "benefit of employment", or "rights and benefits" means the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest, including wages or salary for work performed, that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage, awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment;

3. "Commissioner of Labor" means the Oklahoma Commissioner of Labor whose office is established in Section 1 of Article VI of the Oklahoma Constitution and whose powers and duties are established pursuant to Section 1 of Title 40 of the Oklahoma Statutes or any person designated or retained by the Commissioner of Labor to carry out a responsibility of the Commissioner of Labor under the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

4. "District attorney" means the executive officer established pursuant to Section 215.1 of Title 19 of the Oklahoma Statutes. The powers and duties exercised by a district attorney pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, upon designation by the district attorney, may also be performed by an assistant district attorney or by a special district attorney appointed pursuant to subsection C of Section 215.37M of Title 19 of the Oklahoma Statutes;

5. "Employee" means any person employed by an employer. Employee includes any person who is a citizen, national, or permanent resident alien of the United States;

6. a. Except as provided in subparagraphs b and c of this paragraph, "employer" means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including:

- (1) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities,
- (2) the State of Oklahoma,
- (3) any political subdivision within the State of Oklahoma,
- (4) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph, and
- (5) a person, institution, organization, or other entity that has denied initial employment in violation of Section 7 of this act.

b. Where a soldier or airman of the Oklahoma National Guard performs his or her duty as an Active Guard and Reserve program participant or where a National Guard technician is employed under 32 U.S.C., Section 709, "employer" does not mean the Adjutant General.

c. Where a National Guard technician is employed under 32 U.S.C., Section 709, "employer" means the Adjutant General.

d. (1) Whether the term "successor in interest" applies with respect to an entity described in division (4) of subparagraph a of this paragraph shall be determined on a case-by-case basis using a multifactor test that considers the following factors:

- (a) substantial continuity of business operations,
  - (b) use of the same or similar facilities,
  - (c) continuity of workforce,
  - (d) similarity of jobs and working conditions,
  - (e) similarity of supervisory personnel,
  - (f) similarity of machinery, equipment, and production methods, and
  - (g) similarity of products or services.
- (2) The entity's lack of notice or awareness of a potential or pending claim under the Oklahoma Uniformed Services Employment and Reemployment Rights Act at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multifactor test under division (1) of this subparagraph;

7. "Health plan" means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid;

8. "Notice" means any written or verbal notification of an obligation or intention to perform service in the state military forces provided to an employer by the employee who will perform such service or by the state military force component in which the service is to be performed;

9. "Political subdivision" means the seventy-seven counties of the state, incorporated municipalities, including both cities and towns, and all public entities or instrumentalities, including, but not limited to, municipal corporations, municipal sewer and water authorities, public trusts and public authorities in the state which are not a state agency, an executive officer, the legislative branch or the judicial branch of the state. Political subdivisions include, but are not limited to, special districts, authorities and instrumentalities such as school districts, fire protection districts, conservation districts, water and sewer districts,

emergency medical service districts and airport and housing authorities;

10. "Qualified", with respect to an employment position, means having the ability to perform the essential tasks of the position;

11. "Reasonable efforts", in actions required of an employer under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, means actions, including training, provided by an employer which do not place an undue hardship on the employer;

12. "Secretary concerned" means either the Secretary of the Army or the Secretary of the Air Force as the context requires;

13. "Seniority" means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment;

14. "Service in the state military forces" means the performance of duty on a voluntary or involuntary basis in the state military forces under competent authority when ordered to "state active duty" or "Title 32 active duty" as defined in Section 801 of Title 44 of the Oklahoma Statutes;

15. "State" means the State of Oklahoma;

16. "State agency" includes any executive branch agency within the state, whether appropriated or nonappropriated, established either by the Oklahoma Constitution or by the Oklahoma Statutes, including the Oklahoma Military Department with respect to the state employees employed by the Oklahoma Military Department;

17. "State government" means any state agency, the legislative branch of the state, and the judicial branch of the state;

18. "State military forces" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes; and

19. "Undue hardship", in actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of:

a. the nature and cost of the action needed,



- b. the overall financial resources of the facility or facilities involved in the provision of the action, the number of persons employed at the facility, the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility,
- c. the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; or the number, type, and location of its facilities, and
- d. the type of operation or operations of the employer, including the composition, structure, and functions of the workforce of such employer; or the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4304 of Title 44, unless there is created a duplication in numbering, reads as follows:

A person's entitlement to the benefits of the Oklahoma Uniformed Services Employment and Reemployment Rights Act due to the person's service in the state military forces terminates upon any of the following events:

1. A separation of the person from the state military forces with a dishonorable or bad conduct discharge;

2. A separation of the person from the state military forces under other than honorable conditions, as characterized pursuant to state law or regulations prescribed by the National Guard Bureau or applicable regulations of the United States Army or the United States Air Force;

3. A dismissal of the person permitted under the Oklahoma Uniform Code of Military Justice or the regulations promulgated pursuant to the provisions of the Oklahoma Uniform Code of Military Justice or the applicable regulations of the National Guard Bureau or the United States Army or the United States Air Force; or

4. A dropping of the person from the rolls pursuant to the Oklahoma Uniform Code of Military Justice or the regulations

promulgated pursuant to the provisions of the Oklahoma Uniform Code of Military Justice or the applicable regulations of the National Guard Bureau or the United States Army or the United States Air Force.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4311 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the state military forces shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

B. An employer shall not discriminate in employment against or take any adverse employment action against any person because the person:

1. Has taken an action to enforce a protection afforded pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

2. Has testified or otherwise made a statement in or in connection with any proceeding under the Oklahoma Uniformed Services Employment and Reemployment Rights Act;

3. Has assisted or otherwise participated in an investigation under the Oklahoma Uniformed Services Employment and Reemployment Rights Act; or

4. Has exercised a right provided for in the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the state military forces.

C. An employer shall be considered to have engaged in actions prohibited:

1. Under subsection A of this section if the person's membership, application for membership, service, application for

service, or obligation for service in the state military forces is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or

2. Under subsection B of this section if the person's:

- a. action to enforce a protection afforded any person under the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- b. testimony or making of a statement in or in connection with any proceeding under the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- c. assistance or other participation in an investigation under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or
- d. exercise of a right provided for in the Oklahoma Uniformed Services Employment and Reemployment Rights Act,

is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

D. The prohibitions in subsections A and B of this section shall apply to any position of employment, including a position that is described in subparagraph c of paragraph 1 of subsection D of Section 8 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4312 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Subject to subsections B, C and D of this section and subject to Section 6 of this act, any person whose absence from a position of employment is necessitated by reason of service in the state military forces shall be entitled to the reemployment rights and benefits and other employment benefits of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if:

1. The person, or an appropriate officer of the state military forces in which such service is performed, has given advance written or verbal notice of service to the person's employer;

2. The cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the Uniformed Services of the United States does not exceed five (5) years; and

3. Except as provided in subsection F of this section, the person reports to, or submits an application for reemployment to, his or her employer in accordance with the provisions of subsection E of this section.

B. No notice is required under paragraph 1 of subsection A of this section if the giving of notice is precluded by military necessity or, under all of the relevant circumstances, the giving of notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to the applicable regulations prescribed by the Secretary of Defense pursuant to 38 U.S.C., Section 4312 or pursuant to regulations prescribed by the Adjutant General and shall not be subject to judicial review.

C. Subsection A of this section shall apply to a person who is absent from a position of employment by reason of service in the state military forces if his or her cumulative period of service in the state military forces, with respect to the employer relationship for which he or she seeks reemployment, does not exceed five (5) years, except that any such period of service shall not include any service:

1. That is required, beyond five (5) years, to complete an initial period of obligated service;

2. During which the person was unable to obtain orders releasing him or her from a period of service in the state military forces before the expiration of the five-year period and the inability was through no fault of the person;

3. Performed as required pursuant to 32 U.S.C., Section 502 or 503, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining;

4. Performed by a member of the state military forces who is:

- a. ordered to state active duty in support of a mission or requirement of the state military forces,
- b. ordered to or retained on Title 32 active duty under 32 U.S.C., Section 502(f), or
- c. ordered to or retained on state active duty or Title 32 active duty, other than for training, under any provision of state or federal law to execute the laws of the state, or suppress insurrections or repel invasions or for any state emergency declared by the Governor or the Oklahoma Legislature, as determined by the Adjutant General for state active duty or by the Secretary concerned for Title 32 active duty; or

5. Performed as active duty, as defined in 10 U.S.C., Section 101(d)(1).

D. 1. An employer is not required to reemploy a person under the Oklahoma Uniformed Services Employment and Reemployment Rights Act if:

- a. the employer's circumstances have so changed as to make reemployment impossible or unreasonable,
- b. for a person entitled to reemployment under paragraph 3 or 4 of subsection A of Section 9 of this act or subparagraph b of paragraph 2 of subsection B of Section 9 of this act, the employment would impose an undue hardship on the employer, or
- c. the employment from which the person leaves to serve in the state military forces is for a brief, nonrecurrent period and there is no reasonable expectation that the employment will continue indefinitely or for a significant period.

2. In any proceeding involving an issue of whether:

- a. any reemployment referred to in paragraph 1 of this subsection is impossible or unreasonable because of a change in an employer's circumstances,

- b. any accommodation, training, or effort referred to in paragraph 3 or 4 of subsection A of Section 9 of this act or subparagraph b of paragraph 2 of subsection B of Section 9 of this act would impose an undue hardship on the employer, or
- c. the employment referred to in subparagraph c of paragraph 1 of this subsection is for a brief, nonrecurrent period and there is no reasonable expectation that the employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

E. 1. Subject to paragraph 2 of this subsection, a person referred to in subsection A of this section shall, upon the completion of a period of service in the state military forces, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

- a. for a person whose period of service in the state military forces was less than thirty-one (31) days, by reporting to the employer:
  - (1) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight (8) hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence, or
  - (2) as soon as possible after the expiration of the eight-hour period referred to in division (1) of this subparagraph, if reporting within the period is impossible or unreasonable through no fault of the person,
- b. for a person who is absent from a position of employment for a period of any length for the purposes

of an examination to determine the person's fitness to perform service in the state military forces, by reporting in the manner and time referred to in subparagraph a of paragraph 1 of this subsection,

- c. for a person whose period of service in the state military forces was for more than thirty (30) days but less than one hundred eighty-one (181) days, by submitting an application for reemployment with the employer not later than fourteen (14) days after the completion of the period of service or if submitting the application within the period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of the application becomes possible, or
- d. for a person whose period of service in the state military forces was for more than one hundred eighty (180) days, by submitting an application for reemployment with the employer not later than ninety (90) days after the completion of the period of service.

- 2. a. A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the state military forces shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer, for a person described in subparagraph a or b of paragraph 1 of this subsection or submit an application for reemployment with such employer, for a person described in subparagraph c or d of paragraph 1 of this subsection. Except as provided in subparagraph b of this paragraph, the period of recovery shall not exceed two (2) years.
- b. The two-year period shall be extended by the minimum time required to accommodate the circumstances beyond the person's control which make reporting within the period specified in subparagraph a of this paragraph impossible or unreasonable.

3. A person who fails to report or apply for employment or reemployment within the appropriate period specified in this

subsection shall not automatically forfeit his or her entitlement to the rights and benefits referred to in subsection A of this section but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

F. 1. A person who submits an application for reemployment in accordance with subparagraph c or d of paragraph 1 of subsection E of this section or paragraph 2 of subsection E of this section shall provide to his or her employer, upon request of the employer, documentation to establish that:

- a. his or her application is timely,
- b. he or she has not exceeded the service limitations provided in paragraph 2 of subsection A of this section, except as permitted under subsection C of this section, and
- c. his or her entitlement to the benefits under this act has not been terminated pursuant to Section 6 of this act.

2. Documentation of any matter referred to in paragraph 1 of this subsection that satisfies regulations prescribed by the Commissioner of Labor shall satisfy the documentation requirements in such paragraph.

- 3. a. Except as provided in subparagraph b of this paragraph, the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph 2 of this subsection shall not be a basis for denying reemployment in accordance with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after reemployment, documentation becomes available that establishes the person does not meet one or more of the requirements referred to in subparagraphs a, b and c of paragraph 1 of this subsection, the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under the



Oklahoma Uniformed Services Employment and  
Reemployment Rights Act.

- b. An employer who reemploys a person absent from a position of employment for more than ninety (90) days may require that the person provide the employer with the documentation referred to in subparagraph a of this paragraph before beginning to treat the person as not having incurred a break in service for pension purposes.

4. An employer shall not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

G. The right of a person to reemployment pursuant to this section shall not entitle the person to retention, preference, or displacement rights over any person with a superior claim under the provisions of Title 5 of the United States Code relating to veterans and other preference eligibles.

H. In any determination of a person's entitlement to protection under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, the timing, frequency, and duration of his or her training or service, or the nature of the training or service, including voluntary service, in the state military forces shall not be a basis for denying protection of the Oklahoma Uniformed Services Employment and Reemployment Rights Act if the service does not exceed the limitations set forth in subsection C of this section and the notice requirements established in paragraph 1 of subsection A of this section and the notification requirements established in subsection E of this section are met.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4313 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Subject to subsection B of this section for any employee, and Sections 10 and 11 of this act for an employee of a state government or a political subdivision thereof, a person who is entitled to reemployment under Section 8 of this act, upon completion of a period of service in the state military forces, shall be promptly reemployed in the following order of priority:

1. Except as provided in paragraphs 3 and 4 of this subsection, for a person whose period of service in the state military forces was for less than ninety-one (91) days:

- a. in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, the duties of which the person is qualified to perform, or
- b. in the position of employment in which the person was employed on the date of the commencement of the service in the state military forces, only if he or she is not qualified to perform the duties of the position referred to in subparagraph a of this paragraph after reasonable efforts by the employer to qualify the person;

2. Except as provided in paragraphs 3 and 4 of this subsection, for a person whose period of service in the state military forces was for more than ninety (90) days:

- a. in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, or a position of like seniority, status and pay, the duties of which he or she is qualified to perform, or
- b. in the position of employment in which the person was employed on the date of the commencement of the service in the state military forces, or a position of like seniority, status and pay, the duties of which he or she is qualified to perform, only if he or she is not qualified to perform the duties of a position referred to in subparagraph a of this paragraph after reasonable efforts by the employer to qualify the person;

3. For a person who has a disability incurred in, or aggravated during, the service, and who, after reasonable efforts by the employer to accommodate the disability, is not qualified due to the disability to be employed in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by the service:

- a. in any other position which is equivalent in seniority, status, and pay, the duties of which he or she is qualified to perform or would become qualified to perform with reasonable efforts by the employer, or
- b. if not employed under subparagraph a of this paragraph, in a position which is the nearest approximation to a position referred to in subparagraph a of this paragraph in terms of seniority, status, and pay consistent with circumstances of his or her case; or

4. For a person who is not qualified pursuant to subparagraph a of paragraph 2 of this subsection to be employed in the position of employment in which he or she:

- a. would have been employed if the continuous employment of the person with the employer had not been interrupted by the service, or
- b. was employed on the date of the commencement of the service in the state military forces for any reason, other than disability incurred in, or aggravated during, service in the state military forces, and

cannot become qualified with reasonable efforts by the employer, in any other position which is the nearest approximation to a position referred to first in subparagraph a of this paragraph and then in subparagraph b of this paragraph which such person is qualified to perform, with full seniority.

B. 1. If two or more persons are entitled to reemployment under Section 8 of this act in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

2. Any person entitled to reemployment under Section 8 of this act who is not reemployed in a position of employment by reason of paragraph 1 of this subsection shall be entitled to be reemployed as follows:

- a. except as provided in subparagraph b of this paragraph, in any other position of employment

referred to in paragraph 1 or 2 of subsection A of this section, as the case may be, in the order of priority set out in subsection A of this section, that provides a similar status and pay to a position of employment referred to in paragraph 1 of this subsection, consistent with the circumstances of his or her case, with full seniority, or

- b. for a person who has a disability incurred in, or aggravated during, a period of service in the state military forces that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in paragraph 3 of subsection A of this section, in the order of priority set out in subsection A of this section, that provides a similar status and pay to a position referred to in paragraph 1 of this subsection, consistent with circumstances of his or her case, with full seniority.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4314 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsections B, C and D of this section, if a person is entitled to reemployment by the state government under Section 8 of this act, he or she shall be reemployed in a position of employment as described in Section 9 of this act.

B. 1. If the Director of Human Capital Management of the Office of Management and Enterprise Services makes a determination described in paragraph 2 of this subsection with respect to a person who was employed by a state agency at the time he or she entered the state military forces from which he or she seeks reemployment under this section, the Director shall:

- a. identify a position of like seniority, status, and pay at another state agency that satisfies the requirements of Section 9 of this act and for which the person is qualified, and
- b. ensure that the person is offered such a position.

2. The Director shall carry out the duties in subparagraphs a and b of paragraph 1 of this subsection if the Director determines that:

- a. the state agency that employed the person no longer exists and the functions of the agency have not been transferred to another state agency, or
- b. it is impossible or unreasonable for the agency to reemploy the person.

C. If the employer of a person described in subsection A of this section was, at the time the person entered the state military forces from which the person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the state and the employer determines that it is impossible or unreasonable for the employer to reemploy the person, the person shall, upon application to the Director of Human Capital Management of the Office of Management and Enterprise Services, be ensured an offer of employment in an alternative position in a state agency on the basis described in subsection B of this section.

D. If the Adjutant General determines it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under 32 U.S.C., Section 709, the person shall, upon application to the Director of Human Capital Management of the Office of Management and Enterprise Services, be ensured an offer of employment in an alternative position in a state agency on the basis described in subsection B of this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4315 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. The administrator of each state agency or political subdivision shall prescribe procedures for ensuring that the rights under the Oklahoma Uniformed Services Employment and Reemployment Rights Act apply to the employees of the state agency or political subdivision.

B. In prescribing procedures pursuant to subsection A of this section, the administrator shall ensure, to the maximum extent practicable, that the procedures of the state agency or political subdivision for reemploying persons who serve in the state military forces provide for the reemployment of such persons in the state

agency or political subdivision in a manner similar to the manner of reemployment described in Section 9 of this act.

C. 1. The procedures prescribed in subsection A of this section shall designate an employee at the state agency or political subdivision who shall determine whether or not the reemployment of a person referred to in subsection B of this section by the state agency or political subdivision is impossible or unreasonable.

2. Upon making a determination that the reemployment is impossible or unreasonable, the official designated in paragraph 1 of this subsection shall notify the person seeking reemployment and the Director of Human Capital Management of the Office of Management and Enterprise Services of such determination.

3. A determination made pursuant to this subsection shall not be subject to judicial review.

4. The administrator of each state agency or political subdivision shall submit to the Committee on Veterans and Military Affairs of the Oklahoma House of Representatives and the Committee on Veterans and Military Affairs of the Oklahoma State Senate by December 31 of each year a report on the number of persons whose reemployment with the state agency or political subdivision was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each determination. In the event such determination is not made within the preceding reporting period, no report shall be required pursuant to this paragraph.

D. 1. Except as provided in this section, nothing in this section or Section 9 of this act shall be construed to exempt any state agency or political subdivision referred to in subsection A of this section from compliance with any other substantive provision of the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

2. This section shall not be construed as prohibiting:

- a. an employee of a state agency or political subdivision from seeking information from the Commissioner of Labor regarding assistance in pursuing reemployment from the state agency or political subdivision under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, alternative employment in the

state government under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or information relating to the rights and obligations of employees and state agencies, political subdivisions or their instrumentalities under the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or

- b. such a state agency or political subdivision from voluntarily cooperating with or seeking assistance in or clarification from the Commissioner of Labor or the Director of Human Capital Management of the Office of Management and Enterprise Services for any matter arising under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

E. The Director of Human Capital Management of the Office of Management and Enterprise Services shall ensure the offer of employment to a person in a position in a state agency on the basis described in subsection B of this section if:

1. The person was an employee of a state agency or political subdivision at the time he or she entered the state military forces from which the person seeks reemployment under this section;

2. The appropriate officer of the state agency or political subdivision determines under subsection C of this section that reemployment of the person by the state agency or political subdivision is impossible or unreasonable; and

3. The person submits an application to the Director of Human Capital Management of the Office of Management and Enterprise Services for an offer of employment pursuant to this section.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4316 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. A person who is reemployed under the Oklahoma Uniformed Services Employment and Reemployment Rights Act is entitled to the seniority and other rights and benefits determined by seniority that he or she had on the date of the commencement of service in the state military forces plus the additional seniority and rights and benefits that he or she would have attained if he or she had remained continuously employed.

B. 1. Subject to paragraphs 2 through 5 of this subsection, a person who is absent from a position of employment by reason of service in the state military forces shall be:

- a. deemed to be on furlough or leave of absence while performing such service, and
- b. entitled to other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of the service or established while such person performs the service.

2. a. Subject to subparagraph b of this paragraph, a person who:

- (1) is absent from a position of employment by reason of service in the state military forces, and
- (2) knowingly provides written notice of intent not to return to a position of employment after service in the state military forces,

is not entitled to rights and benefits under subparagraph b of paragraph 1 of this subsection.

- b. For the purposes of subparagraph a of this paragraph, the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the state military forces and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph a of this paragraph.

3. A person deemed to be on furlough or leave of absence under this subsection while serving in the state military forces shall not be entitled to any benefits under this subsection which he or she would not otherwise be entitled if he or she had remained continuously employed.

4. A person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph 1 of this



subsection to the extent other employees on furlough or leave of absence are so required.

5. The entitlement of a person to coverage under a health plan is provided for under Section 13 of this act.

C. A person who is reemployed by an employer under the Oklahoma Uniformed Services Employment and Reemployment Rights Act shall not be discharged from such employment, except for cause:

1. Within one (1) year after the date of reemployment, if his or her period of service before the reemployment was more than one hundred eighty (180) days; or

2. Within one hundred eighty (180) days after the date of reemployment, if his or her period of service before the reemployment was more than thirty (30) days but less than one hundred eighty-one (181) days.

D. Any person whose employment is interrupted by a period of service in the state military forces shall be permitted, upon request of the person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service. No employer may require any such person to use vacation, annual, or similar leave during the period of service.

E. 1. An employer shall grant an employee who is a member of the state military forces an authorized leave of absence from a position of employment to allow that employee to perform funeral honors duty as authorized by 10 U.S.C., Section 12503 or 32 U.S.C., Section 115.

2. For purposes of paragraph 1 of subsection E of Section 8 of this act, an employee who takes an authorized leave of absence pursuant to this subsection is deemed to have notified the employer of the employee's intent to return to such position of employment.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4317 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. 1. In any case in which a person or his or her dependents have coverage under a health plan in connection with the person's position of employment, including a group health plan as defined in

Section 607(1) of the federal Employee Retirement Income Security Act of 1974, and the person is absent from his or her position of employment due to service in the state military forces, the plan shall provide that he or she may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and his or her dependents under an election shall be the lesser of:

- a. a twenty-four-month period beginning on the date on which his or her absence begins, or
- b. the day after the date on which the person fails to apply for or return to a position of employment, as determined in subsection E of Section 8 of this act.

2. A person who elects to continue health plan coverage under this section may be required to pay not more than one hundred two percent (102%) of the full premium under the plan, determined in the same manner as the applicable premium under Section 4980B(f)(4) of the Internal Revenue Code of 1986, associated with the coverage for other employees of the employer, except where a person is absent due to service in the state military forces for less than thirty-one (31) days, the person shall not be required to pay more than the employee share, if any, for such coverage.

3. For a health plan that is a multiemployer plan, as defined in Section 3(37) of the federal Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated:

- a. by the plan in such manner as the plan sponsor shall provide, or
- b. if the sponsor does not provide:
  - (1) to the last employer employing the person before the period served by the person in the state military forces, or
  - (2) if such last employer is no longer functional, to the plan.

B. 1. Except as provided in paragraph 2 of this subsection, for a person whose coverage under a health plan was terminated by reason of service in the state military forces, or by reason of the

person's having become eligible for medical and dental care provided to the person incidental to his or her service in the state military forces, an exclusion or waiting period shall not be imposed in connection with the reinstatement of coverage upon reemployment under the Oklahoma Uniformed Services Employment and Reemployment Rights Act if an exclusion or waiting period would not have been imposed under a health plan had coverage of the person by the plan not been terminated as a result of the service or eligibility. This paragraph applies to the person who is reemployed and to any person who is covered by the plan by reason of the reinstatement of the coverage of the person. This paragraph shall not apply to the coverage of any illness or injury determined by the Adjutant General to have been incurred in, or aggravated during, performance of state active duty or Title 32 active duty in the state military forces.

2. If a person whose coverage under a health plan is terminated due to the person becoming eligible for medical and dental care provided to the person incidental to his or her service in the state military forces but the person subsequently does not commence a period of state active duty or Title 32 active duty under the order to state active duty or Title 32 active duty that established eligibility because the order is canceled before the duty commences, the provisions of paragraph 1 of this subsection related to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to the person's continued employment, upon the termination of eligibility for medical and dental care provided to the person due to his or her service in the state military forces that is incident to the cancellation of the order, in the same manner as if the person had become reemployed upon termination of eligibility.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4319 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Liability of controlling Oklahoma employer of foreign entity. If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by the employer.

B. Applicability to foreign employer. This section shall not apply to foreign operations of an employer that is a foreign person not controlled by an Oklahoma employer, except that any employer conducting business in Oklahoma, even a foreign entity not

registered with the Oklahoma Secretary of State, or any employer with employees working in Oklahoma shall be subject to this act.

C. Determination of controlling employer. For purposes of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

D. Exemption. Notwithstanding any other provision of this section, an employer, or an entity controlled by an employer, shall be exempt from compliance with Sections 7 through 14 of this act with respect to an employee in a workplace in a foreign country, if compliance would cause the employer or entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4321 of Title 44, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Labor shall provide assistance to any person regarding the employment and reemployment rights and benefits which the person is entitled to under the Oklahoma Uniformed Services Employment and Reemployment Rights Act. In providing assistance, the Commissioner may request assistance from existing federal and state agencies engaged in similar or related activities and utilize the assistance of volunteers.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4322 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. A person who claims that:

1. He or she is entitled under the Oklahoma Uniformed Services Employment and Reemployment Rights Act to employment or reemployment rights or benefits with respect to employment; and

2. a. His or her employer has failed or refused, or is about to fail or refuse, to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act, or

- b. His or her employer is a state agency and the employer or the Office of Management and Enterprise Services, Human Capital Management, has failed or refused, or is about to fail or refuse, to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,

may file a complaint with the Commissioner of Labor as provided in subsection B of this section, and the Commissioner shall investigate such complaint.

B. The complaint shall be in writing on a form prescribed by the Commissioner, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

C. 1. Not later than five (5) business days after the Commissioner receives a complaint submitted pursuant to this section, the Commissioner shall notify the complainant in writing of his or her rights with respect to the complaint under this section and Section 17 of this act.

2. The Commissioner shall, upon request, provide technical assistance to a potential complainant for a complaint under this subsection and, when appropriate, to the complainant's employer.

D. The Commissioner shall investigate each complaint submitted pursuant to this section. If the Commissioner determines as a result of the investigation that the action alleged in the complaint occurred, the Commissioner shall attempt to resolve the complaint by making reasonable efforts to ensure that the employer named in the complaint complies with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

E. If the efforts of the Commissioner do not resolve the complaint, the Commissioner shall notify the complainant in writing of:

1. The results of the Commissioner's investigation; and
2. The complainant's entitlement to proceed under the enforcement of rights provisions in Section 17 of this act for a complainant against a state or private employer.

F. Any action required by subsections D and E of this section for a complaint submitted by a complainant to the Commissioner under subsection A of this section shall be completed by the Commissioner not later than ninety (90) days after receipt of the complaint.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4323 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Action for relief. 1. A person who receives from the Commissioner of Labor a notification pursuant to subsection E of Section 16 of this act of an unsuccessful effort to resolve a complaint relating to a state government employer may request that the Commissioner refer the complaint to the district attorney with relevant jurisdiction. The Commissioner shall refer the complaint to the district attorney with relevant jurisdiction not later than sixty (60) days after receiving the request. If the district attorney is reasonably satisfied that the complainant is entitled to the rights or benefits sought, the district attorney may appear on behalf of, and act as attorney for, the complainant and commence an action for relief under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

2. Not later than sixty (60) days after the date the district attorney receives a referral as provided in paragraph 1 of this subsection, the district attorney shall:

- a. make a decision whether to appear on behalf of, and act as attorney for, the complainant, and
- b. notify the complainant in writing of the decision.

3. A person may commence an action for relief based on a complaint against a state government employer or a private employer if the person:

- a. has chosen not to request assistance from the Commissioner under Section 16 of this act,
- b. has chosen not to request the Commissioner to refer the complaint to the district attorney pursuant to paragraph 1 of this subsection, or
- c. has been refused representation by the district attorney.

B. Jurisdiction. In an action against a state government employer or a private employer commenced by the district attorney, the district courts shall have jurisdiction over the action.

C. Venue. 1. In an action by a district attorney against a state government employer, the action may proceed in the district court of the county where the complainant resides or was previously assigned for duty as a state employee immediately prior to service in the state military forces.

2. In an action by a district attorney against a private employer, the action may proceed in the district court of the county where the private employer of the complainant maintains a place of business.

D. Remedies. 1. In any action pursuant to this section, the court may award any or all of the following types of relief by requiring the employer to:

- a. comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- b. compensate the complainant for any loss of wages or benefits suffered by reason of the employer's failure to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- c. pay the complainant an amount equal to the amount provided in subparagraph b of this paragraph as liquidated damages, if the court determines that the employer willfully failed to comply with the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- d. pay actual and compensatory damages, and
- e. pay punitive damages. Punitive damages awarded pursuant to this subparagraph shall be determined in accordance with applicable state law.

2. a. Any compensation awarded pursuant to this subsection shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under

the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

- b. In an action commenced in the name of the State of Oklahoma for which the relief includes compensation awarded pursuant to subparagraph b, c, d or e of paragraph 1 of this subsection, the compensation shall be held in a special deposit account and shall be paid, on order of the district attorney who commenced the action against a state government employer or a private employer, directly to the complainant. If the compensation is not paid to the complainant because of inability to do so within a period of three (3) years, the compensation shall be deposited in the Unclaimed Property Fund of the State Treasury pursuant to the Uniform Unclaimed Property Act, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

3. The State of Oklahoma shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

E. Equity powers. The court shall use, if it deems appropriate, its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

F. Standing. An action pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act may be initiated only by a person claiming rights or benefits as provided in the act under subsection A of this section or by the State of Oklahoma under paragraphs 1 and 2 of subsection A of this section.

G. Respondent. In any action pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, only an employer or a potential employer shall be a necessary party respondent.

H. Fees and court costs. 1. No fees or court costs shall be charged against or imposed upon any person claiming rights under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.



2. In any action or proceeding to enforce a provision of the Oklahoma Uniformed Services Employment and Reemployment Rights Act by a complainant who obtained private counsel for an action or proceeding, the court may award a prevailing complainant reasonable attorney fees, expert witness fees, and other litigation expenses.

I. Definition. As used in this section, "private employer" includes the political subdivisions of the State of Oklahoma as defined in Section 5 of this act.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4326 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. In any investigations pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act:

1. Duly authorized representatives of the Commissioner of Labor shall, at all reasonable times, have reasonable access to and the right to interview persons with information relevant to an investigation and shall have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Commissioner considers relevant to the investigation; and

2. The Commissioner may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. If a party disobeys a subpoena, and upon request of the Commissioner, the district attorney with jurisdiction in the county where the complainant resides or where the complainant was previously assigned for duty as a state employee immediately prior to service in the military forces may apply to district court for an order enforcing the subpoena.

B. Upon application, district courts of the state shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Commissioner or to comply with any order of the Commissioner made pursuant to a lawful investigation pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act, and district courts shall have jurisdiction to punish a party for failure to obey a subpoena or other lawful order of the Commissioner as a contempt of court.

C. Subsections A and B of this section shall not apply to the legislative branch or the judicial branch of the state.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4327 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Effect of noncompliance of state officials with deadlines.

1. The inability of the Commissioner of Labor or a district attorney to comply with a deadline applicable to such official under Section 16 or 17 of this act shall not:

- a. affect the authority of the district attorney to represent and file an action or submit a complaint on behalf of a person under Section 17 of this act,
- b. affect the right of a person to:
  - (1) commence an action under Section 17 of this act, or
  - (2) obtain any type of assistance or relief authorized by the Oklahoma Uniformed Services Employment and Reemployment Rights Act,
- c. deprive a district court of jurisdiction over an action or complaint filed by the district attorney or a person under Section 17 of this act, and
- d. constitute a defense, including a statute of limitations period, that any employer, including state government, its political subdivisions or a private employer, may raise in an action filed by the district attorney or a person under Section 17 of this act.

2. If the Commissioner or the district attorney is unable to meet a deadline applicable to such official in Section 16 or 17 of this act, and the complainant agrees to an extension of time, the Commissioner or the district attorney shall complete the required action within the additional period of time agreed to by the complainant.

B. Inapplicability of statutes of limitations. If any person seeks to file a complaint or claim with the Commissioner of Labor or a district court alleging a violation of the Oklahoma Uniformed

Services Employment and Reemployment Rights Act, there shall be no limitation on the period for filing the complaint or claim.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4331 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Labor, in consultation with the Adjutant General, may prescribe regulations implementing the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act as it applies to state government, political subdivisions, and private employers.

B. The Director of Human Capital Management of the Office of Management and Enterprise Services, in consultation with the Commissioner of Labor and the Adjutant General, may prescribe regulations implementing the provisions of the Oklahoma Uniformed Services Employment and Reemployment Rights Act as it applies to state agencies as employers. The regulations shall be consistent with regulations pertaining to political subdivisions and private employers, except that state employees may be given greater or additional rights.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4332 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Annual report by the Commissioner of Labor. The Commissioner shall, after consultation with the district attorney to whom a complaint pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act has been referred, transmit to the Committee on Veterans and Military Affairs of the Oklahoma House of Representatives and the Committee on Veterans and Military Affairs of the Oklahoma State Senate not later than July 1 of each year a report on matters for the fiscal year ending in the year before the year in which the report is transmitted the number of cases reviewed by the Department of Labor under the Oklahoma Uniformed Services Employment and Reemployment Rights Act during the fiscal year for which the report is made.

B. In the event no complaints are received pursuant to the Oklahoma Uniformed Services Employment and Reemployment Rights Act during the fiscal year for which the report is made, no report shall be required pursuant to this section.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4333 of Title 44, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Labor, Adjutant General, and Executive Director of the Oklahoma Department of Veterans Affairs shall take such actions as they determine to be appropriate to inform persons entitled to rights and benefits under the Oklahoma Uniformed Services Employment and Reemployment Rights Act and employers of the rights, benefits, and obligations of employees and employers under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4334 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Requirement to provide notice. Each employer shall identify their employees who are members of the state military forces and provide them with a notice of the rights, benefits, and obligations of employees and employers subject to the Oklahoma Uniformed Services Employment and Reemployment Rights Act. This notice requirement may be met by posting the notice where employers customarily place notices for employees.

B. Content of the notice. The Commissioner of Labor shall provide employers with the content of the notice required by this section.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4335 of Title 44, unless there is created a duplication in numbering, reads as follows:

A. Training required. The administrator of each state agency and political subdivision shall provide training for the human resources personnel of the agency or political subdivision on the following:

1. The rights, benefits, and obligations provided in the Oklahoma Uniformed Services Employment and Reemployment Rights Act for employees who are members of the state military forces; and

2. The application and administration of the requirements of the Oklahoma Uniformed Services Employment and Reemployment Rights Act by the agency or political subdivision.

B. Training consultation and frequency. The training required by subsection A of this section for state agencies shall be developed and provided in consultation with the Director of Human Capital Management of the Office of Management and Enterprise Services. The training shall be provided as determined by the Director of Human Capital Management of the Office of Management and Enterprise Services in order to ensure that the human resources personnel of state agencies are kept fully and currently informed of the issues covered by the training.

C. Human resources personnel defined. As used in this section, "human resources personnel" means any personnel of a state agency or political subdivision who are authorized to recommend, take, or approve any employee action which is subject to the requirements of the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

SECTION 25. AMENDATORY 72 O.S. 2011, Section 48.1, is amended to read as follows:

Section 48.1 A. All officers and employees of any employer in the private sector, who are members, either officers or enlisted, of the Reserve Components, ~~to include the Army and Air National Guard and of the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves,~~ or any other component of the ~~Armed Forces~~ Uniformed Services of the United States, shall, when ordered by the proper authority to active or inactive duty or service under Title 10 of the United States Code, be entitled to a leave of absence from such private civilian employment for the period of such service without loss of status or seniority. During such leave of absence in any federal fiscal year, the employer in the private sector may elect to pay the officer or employee an amount equal to the difference between his or her full regular pay from the employer in the private sector and his or her military base pay. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law.

If any employer in the private sector fails to comply with the provisions of this ~~section~~ subsection, the officer or employee may bring an action in district court for ~~actual and compensatory~~ the same remedies and damages provided for in Section 17 of this act, for such noncompliance and may be granted such relief as is just and proper under the circumstances.

B. All officers and employees of any employer in the private sector, who are members, either officers or enlisted, of the state military forces, shall, when ordered by the proper authority to state active duty or Title 32 active duty, be entitled to all the protections provided under the Oklahoma Uniformed Services Employment and Reemployment Rights Act.

C. "State active duty", "state military forces", and "Title 32 active duty", for the purposes of this section, shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes.

SECTION 26. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 2nd day of March, 2021.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 14th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_