



591888

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2009	.	
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The Committee on Military Affairs and Domestic Security (Deutch) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 250.35,
Florida Statutes, are amended to read:

250.35 Courts-martial.—

(1) The Uniform Code of Military Justice (UCMJ), 10 U.S.C.
ss. 801 et seq., and the Manual for Courts-Martial (2008 ~~2002~~
Edition) are adopted for use by the Florida National Guard,
except as otherwise provided by this chapter.



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12 (2) Courts-martial may try any member of the Florida
13 National Guard for any crime or offense made punishable by the
14 Uniform Code of Military Justice (2008 2002 Edition), except
15 that a commissioned officer, warrant officer, or cadet may not
16 be tried by summary courts-martial.

17 Section 2. Section 250.482, Florida Statutes, is amended to
18 read:

19 250.482 Troops ordered into state active service; not to be
20 penalized by employers and postsecondary institutions.—

21 (1) If a member of the ~~Florida~~ National Guard is ordered
22 into state active duty pursuant to this chapter, a private or
23 public employer, or an employing or appointing authority of this
24 state, its counties, school districts, municipalities, political
25 subdivisions, career centers, community colleges, or
26 universities, may not discharge, reprimand, or in any other way
27 penalize such member because of his or her absence by reason of
28 state active duty.

29 (a) A member of the National Guard who returns to work
30 after serving on state active duty is entitled to:

31 1. The seniority that the member had at his or her place of
32 employment on the date of the commencement of his or her state
33 active duty and any other rights and benefits that inure to the
34 member as a result of such seniority; and

35 2. Any additional seniority that the member would have
36 attained at his or her place of employment if he or she had
37 remained continuously employed and the rights and benefits that
38 inure to the member as a result of such seniority.

39 (b) A member of the National Guard who returns to work
40 after serving on state active duty shall not be discharged from



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41 such employment, except for cause.

42 (2) An employer may not require any National Guard member
43 returning to employment following a period of state active duty
44 service to use vacation, annual, compensatory, or similar leave
45 for the period during which the member was ordered into state
46 active duty. However, any such returning member shall, upon his
47 or her request, be permitted to use, for the period during which
48 the member was ordered into state active duty, any vacation,
49 annual, compensatory, or similar leave with pay accrued by the
50 member prior to the commencement of his or her state active duty
51 service.

52 (3)~~(2)~~ If the Adjutant General certifies that there is
53 probable cause to believe there has been a violation of this
54 section, an employee ~~who has been employed for a period of at~~
55 ~~least 1 year prior to being~~ ordered into state active duty so
56 injured by a violation of this section may bring civil action
57 against an employer violating this section in a court of
58 competent jurisdiction of the county in which the alleged
59 violator resides or has his or her principal place of business,
60 or in the county wherein the alleged violation occurred. Upon
61 adverse adjudication, the defendant is liable for actual damages
62 or \$500, whichever is greater. The prevailing party in any
63 litigation proceedings is entitled to recover reasonable
64 attorney's fees and court costs.

65 (4)~~(3)~~ The certification of probable cause may not be
66 issued until the Adjutant General, or his or her designee, has
67 investigated the issues. All employers and other personnel
68 involved with the issues of such investigation must cooperate
69 with the Adjutant General in the investigation.



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70 Section 3. Section 250.82, Florida Statutes, is amended to
71 read:

72 250.82 Applicability of state and federal law.—

73 (1) Florida law provides certain protections to members of
74 the United States Armed Forces, the United States Reserve
75 Forces, and the ~~Florida~~ National Guard in various legal
76 proceedings and contractual relationships. In addition to these
77 state provisions, federal law also contains protections, such as
78 those provided in the Servicemembers Civil Relief Act (SCRA),
79 Title 50, Appendix U.S.C. ss. 501 et seq., and the Uniformed
80 Services Employment and Reemployment Rights Act (USERRA), Title
81 38 United States Code, chapter 43, that are applicable to
82 members in every state even though such provisions are not
83 specifically identified under state law.

84 (2) To the extent allowed by federal law, the state courts
85 ~~shall~~ have concurrent jurisdiction for enforcement over all
86 causes of action arising from ~~the provisions of~~ federal law and
87 may award a remedy as provided therein.

88 (3) Any person who:

89 (a) Knowingly omits, neglects, or refuses to comply with
90 any duty imposed upon him or her by;

91 (b) Knowingly omits, neglects, or refuses to do or cause to
92 be done any of the things required by; or

93 (c) Commits any act prohibited by

94
95 this chapter or any other provision of the Florida Statutes
96 which affords protections to members of the United States Armed
97 Forces, the United States Reserve Forces, and the National Guard
98 in any legal proceeding, contractual relationship, or in any



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99 other manner, in addition to any other penalty provided by law,
100 is liable for a civil penalty of up to \$1,000 per violation,
101 attorney's fees, and court costs.

102 Section 4. This act shall take effect July 1, 2009.
103

104 ===== T I T L E A M E N D M E N T =====

105 And the title is amended as follows:

106 Delete everything before the enacting clause
107 and insert:

108 A bill to be entitled

109 An act relating to military affairs; amending s. 250.35,
110 F.S.; clarifying and updating references with respect to courts-
111 martial; amending s. 250.482, F.S.; revising applicability of
112 provisions with respect to immunity of National Guard members
113 ordered into state active duty from penalization by employers;
114 providing for entitlement of National Guard members returning to
115 work following state active duty to seniority and other rights
116 and benefits; providing that such members shall not be
117 discharged from employment except for cause; providing rights
118 and requirements with respect to use of vacation and leave by
119 such members; removing a limitation with respect to the right of
120 an employee ordered into state active duty to bring a civil
121 action for specified violation by an employer; amending s.
122 250.82, F.S.; clarifying provisions; providing for the
123 imposition of a civil penalty for specified noncompliance with
124 any duty imposed under ch. 250, F.S., or with other specified
125 provisions of state law that afford protections to members of
126 the United States Armed Forces, the United States Reserve
127 Forces, and the National Guard; providing for attorney's fees



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128 and court costs; providing an effective date.