

LANE COUNTY LAW LIBRARY LEGAL RESEARCH GUIDE -- # 16: SERVICEMEMBERS' CIVIL SERVICE RELIEF ACT (2003)

Lane County Law Library

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Generally:

The Servicemembers' Civil Service Relief Act (SCRA) provides for temporary suspension of judicial and administrative proceedings that could adversely affect the civil rights of servicemembers during their military service. Servicemembers (SMs), include members of the Army, Navy, Coast Guard, Marine Corps, and Air Force on active duty under 10 U.S.C. 101(d)(1), as well as Reservists and members of the National Guard who are called to active duty for over 30 days. Spouses and dependents of SMs are also covered under the SCRA under certain circumstances. The current law can be found at 50 U.S.C. App. § 501 *et seq.*

<http://www.justice.gov/crt/military/documents/scratext.pdf>

What this means:

Before any court, including an administrative agency, may enter a judgment or administrative determination for the moving party, he, she or it must provide an affidavit confirming whether the affected party is in military service, or the moving party's inability to determine such information. If the affected party is in the military, then the court may not enter a default judgment against the party without appointing an attorney for him or her. In some instances, the court must stay the proceedings for at least 90 days (upon application of the SM or his or her attorney, or on the court's own motion).

How to determine if an individual is in the military:

1. Go to the Defense Manpower Data Center (DMDC) website at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>
2. Required Input: Enter valid SSN and Last Name, OR valid Last Name and Date of Birth.
3. To avoid mismatches, all data must be entered twice.
4. Last name is:
 - a. not case-sensitive
 - b. matched on first 3 letters if provided with valid SSN
 - c. matched on complete name if provided with date of birth but without an SSN (an exact match of last name is required)
 - d. listed on the certificate exactly as entered in the query screen.
5. First name and middle name:
 - a. are optional
 - b. assist to more specifically identify an individual
 - c. are listed on the certificate exactly as entered in the query screen
6. Date of Birth:
 - a. must be greater than December 1899
 - b. must include four-digit year (YYYY) and month
 - c. is used to help uniquely identify an individual
 - d. is not listed on the certificate.

7. Click "Lookup"; the certificate is generated in a new browser window.

Input must match a unique person in DEERS for DMDC to certify that the individual is on Active Duty. Although statistically improbable, it is possible that multiple active duty matches may exist based on the provided information. The DMDC cannot provide verification of active duty status in this case. To ensure that this does not happen, always provide a Date of Birth if you have this information.

8. **Alternative Method: Active Duty Verification by Email**

For historical information, or if you do not have sufficient personal information to use this web site, you may verify an individual's active duty status through the Military Services. Contact information for each Service Headquarters is listed on this "defenselink.mil" web site:

<http://www.defenselink.mil/faq/pis/PC09SLDR.html>

General Web Site Assistance

For general web site assistance, you may contact the DMDC by mail. **NEVER** send personally identifying information via unencrypted email, nor in an unprotected format.

Defense Manpower Data Center
Attn: Military Verification
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

SUGGESTED RESOURCES:

A. INFORMATION ABOUT THE SCRA

State & County Resources

1. **Oregon Office of Administrative Hearings—“SWARM SCRA & DMDC Training” (powerpoint)**
<http://egov.oregon.gov/DAS/SCD/ASP/docs/SWARM/SCRA2009.ppt>
2. **Chapter 83, Laws of 2009**, Oregon statute passed in 2009 which implements fines and penalties for an opposing party who “willfully” ignores a servicemember’s rights under the federal statutes (H.B. 2303, effective May 8, 2009)
<http://www.leg.state.or.us/09reg/asures/hb2300.dir/hb2303.en.html>

Federal Resources

1. **SCRA Website**
<https://www.dmdc.osd.mil/appj/scra/help.do>
2. **Department of Defense SCRA Certificates**
<http://www.defenselink.mil/faq/pis/PC09SLDR.html>
To obtain information other than current status for individuals in the military
3. **SCRA Information from the Army JAG School--FAQs**
<https://www.jagcnet.army.mil/852573F600760E8C/0/524256A5C86C3547852573EF00507EB4?opendocument>

Other Internet Resources

1. **American Bar Association—Judge’s Guide to the SCRA**
<http://www.abanet.org/family/military/scrajudgesguidecklist.pdf>
2. **American Bar Association—Working Group on Protecting the Rights of Servicemembers**
www.abanet.org/legalservices/downloads/lamp/wgprsmreport.pdf
(p. 41-45)
3. **Fair Debt Collection.com**
<http://www.fair-debt-collection.com/searches/SSCRA.html>

Information on how SCRA applies to active members of military and their families, including interest deduction, default judgments (delayed for 90 days)

4. Oregon State Bar Bulletin, July 2009

<http://www.osbar.org/publications/bulletin/09jul/protecting.html>

“Protecting the Protectors: The Crucial Details that Every Lawyer Needs to Know to Safeguard Rights of Those in Uniform.” by Janine Robben

5. Washington County Law Library’s Oregon Legal Research blog post:

<http://oregonlegalresearch.blogspot.com/search?q=sskra>

B. HOW TO FIND BIRTH DATE INFORMATION ON INDIVIDUALS, USING PUBLIC RECORDS

(Social Security numbers are generally not available in any public records)

1. Traffic offenses on OJIN (in court)

<http://www.courts.oregon.gov/sites/OJD/OnlineServices/OJIN/about.page>

**OJIN is subscription-based only.

- 2. Other court filings on OJIN and in local court.** Most courts provide computers with free access. In the Lane County Circuit court these computers can be found on the 2nd floor near the Clerks’ counter in the County Courthouse.
- 3. Consult with an attorney or private investigator,** both of whom have access to databases providing credit and driving records information
- 4. Check with Deeds and Records** for record of marriage (if person is known to be local) – however you cannot order a birth or marriage certificate for someone else without a letter of permission from the individual you are investigating.
- 5. DMV –** www.odot.state.or.us/forms/dmv/7122.pdf Some driving records can be obtained from the DMV, but not all of these have personal information included. Also there is a charge for some records.
- 6. Elections –** in Lane County, if you have a name and an address, you can find DOB information if the person is a registered voter in this county. Lane County Elections at 275 W. 10th Ave. has a public computer that can be used to pull up public records information for the county.

C. FORMS

1. Military Service Affidavit Required for Default Judgment

To comply with SCRA, the party requesting a judgment must submit a sworn affidavit stating whether or not the other party is in the military service before the court may enter a judgment against a person who has not appeared in a civil proceeding.

Here are some examples of forms from the State of Oregon. These forms are not county-specific, but may be accepted by some courts. Make sure that you check with your county court before submitting.

<http://courts.oregon.gov/OJD/programs/utcr/UTCRForms.page?>

Click on Form 15.010.1b—Request for Default Judgment; Defendant Status Affidavit. This form is from the Uniform Trial Court Rules.

Most counties (including Lane County) have their own forms for requesting a default judgment. If you cannot find a specific form online, you may be able to get a print copy from the court. The forms given above allow the petitioner to state that he or she is unable to determine, or has not yet received a determination regarding the respondent’s military status. Many of the county forms do not provide this option, so the petitioner should check with their county court

as to what type of affidavit would be required to show a good faith attempt to determine the respondent's military status.

Some **examples** of forms for different counties in Oregon:

Marion County

<http://courts.oregon.gov/Marion/MaterialsAndResources/FormsIndex.page?#Military>

Click on **sworn affidavit** and the form will come up

Linn County

<http://courts.oregon.gov/Linn/Forms/Forms.page?>

Baker County

http://www.bakercounty.org/justice/Request_for_Judgment.pdf

Yamhill County

<http://courts.oregon.gov/Yamhill/forms.page?>