



Statement

by the

NATIONAL MILITARY FAMILY ASSOCIATION

for

**Subcommittee on
Economic Opportunity**

of the

**UNITED STATES HOUSE
Committee on Veterans' Affairs**

June 14, 2023

Not for Publication Until Released by
The Committee

The National Military Family Association is the leading nonprofit dedicated to serving the families who stand beside the uniform. Since 1969, NMFA has worked to strengthen and protect millions of families through its advocacy and programs. We provide spouse scholarships, camps for military kids, and retreats for families reconnecting after deployment and for the families of the wounded, ill, or injured. NMFA serves the families of the currently serving, retired, wounded, or fallen members of the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, and Commissioned Corps of the USPHS and NOAA.

The Association does not have or receive federal grants or contracts.

Our website is: www.MilitaryFamily.org.

Meredith M. Smith, Government Relations Deputy Director

Meredith joined the Government Relations Department in 2023 as a Deputy Director. In this role, she monitors and advocates on issues related to the financial readiness and stability of military families.

Prior to joining NMFA, Meredith worked in several nonprofits across the country as well as in executive and legislative branches of state government. While stationed in California, she was appointed by Governor Jerry Brown to work at the Health Professions Education Foundation, a nonprofit that encourages persons from underrepresented communities to become health professionals and increase access to health providers in medically underserved areas. Meredith worked as the Director of Policy for Nevada Succeeds, a nonprofit education policy organization dedicated to aligning the state of Nevada's education policies with the highest global standards. In that role, she was appointed by the State Superintendent of Public Instruction to serve as a member of the Teachers and Leaders Council, which is statutorily required to make recommendations to the State Board of Education on the role of professional standards for educators.

Meredith joined the staff of Hiring Our Heroes in 2019 to support and manage the Military Spouse Professional Network (MSPN), a professional community of military spouses, comprised of more than 60 locations in 6 countries around the world.

As an active duty Air Force spouse of more than 12 years, Meredith has volunteered in many roles to support military families and the civilian communities in which she has lived, serving as a Key Spouse and a guardian ad litem. She was named the 2022 Air Force Joan Orr Military Spouse of the Year. Meredith holds a Bachelor of Arts in Legal Studies and Political Science from University of Tennessee and a Master of Public Policy from the University of Massachusetts Dartmouth. She lives in Arlington, VA with her husband.

Chairman Van Orden, Ranking Member Levin, and Distinguished Members of the Subcommittee, the National Military Family Association would like to thank you for the opportunity to present testimony today about legislation that would add military spouses to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

This is an important discussion that has significant nuance. We sincerely appreciate the subcommittee's interest and willingness to help tackle the challenge of military spouse unemployment. This issue impacts military family financial stability and overall wellbeing, making it a retention issue for our nation's military as well as an issue that impacts the overall culture and climate of a military into which we must continue to be able to recruit.

PROPOSED LEGISLATION TO ADDRESS MILITARY SPOUSE UNEMPLOYMENT

NMFA is committed to advancing policy solutions that increase and support military family financial stability and overall military family wellbeing. However, we fear that, while well-intentioned, extending USERRA protections to military spouses would not address military spouse unemployment. Indeed, we are concerned that including military spouses in USERRA will make businesses hesitant to hire them, due to potential litigation, costs, and administrative burdens and how the legislation possibly conflicts with state laws relating to pension systems. Taken together, we are concerned that this legislation, as well-intended as it is, could ultimately create more frustration among military spouses and families, given USERRA's unknown ability to solve unemployment population problems on a large scale.

SCOPE OF THE PROBLEM

Active duty military spouses have faced an unemployment rate of more than 20 percent for more than a decade¹. What does a 20 percent unemployment rate mean? It means that many military families who need two incomes must get by with one. This impacts nearly every aspect of life.

The data on active duty military spouse unemployment comes from a biennial survey done by the Department of Defense (DoD). The unemployment rate of reserve component military spouses is not as consistently surveyed by DoD, and veteran military spouse unemployment is not known. The most recent data from 2019 on military spouses married to service members in the reserve component shows unemployment at 7 percent. This number was statistically the same from 2017 and 2014 and comes from the Department of Defense's Reserve Component Spouses Survey.²

The Department of Labor does not currently measure military spouse unemployment for any military spouses, and, while the DoD data is considered reliable, it does not allow for the type of real-time data that would help us better understand the nuances of the problem. For example, we are unable to see monthly, quarterly, or biannual fluctuations. We are also unable to see

¹United States. Department of Defense. (2014). *2012 Survey of Active Duty Spouses*. Defense Manpower Data Center. <https://download.militaryonesource.mil/12038/MOS/Surveys/ADSS1201-Briefing-Support-Deployment-Reintegration-PCS-WellBeing-Education-Employment.pdf>

² United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>

changes in regions, states, or installations. This type of information would be incredibly helpful in finding targeted solutions to a problem that has existed for decades. Tracking military spouse employment and unemployment would also improve the ability to work with state and local partners and businesses, allowing the collective military family support space to better communicate both the military spouse employment needs as well as the local economic impact military spouses bring to defense communities around the country.

There are approximately 594,110 active duty military spouses and 357,200 reserve component military spouses, bringing the total number of active duty, guard, and reserve military spouses to approximately one million people.³ This number does not include military spouses who are married to veterans. There are approximately 18.8 million veterans in the United States, and 59.8 percent of them are married, meaning there are approximately 9.8 million spouses of veterans.⁴ The legislation, as written, would apply to each of these populations in different ways.

Type of Military Spouse	Number	Unemployment Rate	Labor Force Participation
Active Duty	594,110 ⁵	Over 20% for more than 10 years ⁶	64% ⁷
Reserve Component	357,200 ⁸	7% ⁹	79% ¹⁰
Veteran	9.8 million ¹¹	Unknown	Unknown

USERRA AS A POLICY TOOL

USERRA is an important policy lever to ensure that service members who serve in the reserve components of the military are able to return to their civilian employment. Their military service

³ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

⁴ National Conference of State Legislatures. (2017, Nov. 20). *Veterans By the Numbers*. <https://www.ncsl.org/state-legislatures-news/details/veterans-by-the-numbers#:~:text=Veterans%20are%20also%20more%20likely,47.8%20percent>).

⁵ United State. Department of Defense. *2021 Demographics: Profile of the Military Community*. <https://download.militaryonesource.mil/12038/MOS/Factsheets/SECO/MSEP-Factsheet-Corporate.pdf>

⁶ United States. Department of Defense. (2014). *2012 Survey of Active Duty Spouses*. Defense Manpower Data Center. <https://download.militaryonesource.mil/12038/MOS/Surveys/ADSS1201-Briefing-Support-Deployment-Reintegration-PCS-WellBeing-Education-Employment.pdf>

⁷ United States. Department of Defense. (2023). *2021 Active Duty Spouse Survey*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Presentations/2021-active-duty-spouse-overview-briefing.pdf>

⁸ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

⁹ United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>

¹⁰ United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>

¹¹ National Conference of State Legislatures. (2017, Nov. 20). *Veterans By the Numbers*. <https://www.ncsl.org/state-legislatures-news/details/veterans-by-the-numbers#:~:text=Veterans%20are%20also%20more%20likely,47.8%20percent>).

is not assumed to be continuously or indefinitely ongoing. It is also a tool to help ensure that those who are serving, have served, or are considering serving, are not discriminated against because of their service to the county.¹² This is truly a national security consideration.

It is important to understand that the provisions of USERRA were designed to meet the needs of a population that, when not engaged in full-time military service, does have a reasonable expectation that they will return to their community upon completion of their service. Section 4301 of Title 38 specifically says that one of the purposes of the law is to minimize the disruption to the lives of persons performing service in the uniformed services 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 such service.”¹³

Active duty military spouses, reserve component military spouses, and veteran military spouses are each populations with needs that are often different from one another as well as different from those who serve or have served in the uniform services. Most active duty military spouses, in particular, do not have a reasonable expectation that they will return to a duty station if they have to leave their job due to military orders.

The Survey of Active Duty Spouses that is conducted every two years by DoD does give us a national benchmark of the problem we are facing with regard to active duty military spouse unemployment, and we know from this survey that the high unemployment rate is linked to frequent, military-mandated moves, a high operations tempo, and challenges with securing child care that can make finding and maintaining employment exceptionally challenging for military spouses. Adding military spouses to USERRA does not address these specific challenges.

The DoD has invested considerable time, money, and resources into the problems associated with and caused by military spouse unemployment. Other federal, state, and local departments and agencies have also invested in efforts to tackle this problem. Yet, the problem of military spouse unemployment persists. Regularly tracking military spouse unemployment in a way that gives us more actionable data would allow us to better target solutions and share the value that military spouses can bring to local business communities.

FOUNDATIONAL DATA CONCERNS

We are concerned that the foundation of this legislation rests on an underlying assumption that USERRA is a tool to combat unemployment. The USERRA statute does not mention unemployment. It addresses employment, re-employment, and discrimination.

¹² Uniformed Services Employment and Reemployment Rights Act. 38 U.S.C. (1996). <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title38%2Fpart3%2Fchapter43&req=granuleid%3AUSC-prelim-title38-chapter43-subchapter2&num=0&saved=L3ByZWxpbUB0aXRzZTM4L3BhcnQzL2NoYXB0ZXI0Mw%3D%3D%7CZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGI0bGUzOC1jaGFwdGVyNDM%3D%7C%7C%7C0%7Cfalse%7Cprelim>

¹³ Uniformed Services Employment and Reemployment Rights Act. 38 U.S.C. § 4301 (1994). <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title38%2Fpart3%2Fchapter43&req=granuleid%3AUSC-prelim-title38-section4301&num=0&saved=L3ByZWxpbUB0aXRzZTM4L3BhcnQzL2NoYXB0ZXI0Mw%3D%3D%7CZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGI0bGUzOC1jaGFwdGVyNDM%3D%7C%7C%7C0%7Cfalse%7Cprelim>

Additionally, the reserve component service member civilian unemployment rate is not well documented, so it is difficult to know if USERRA has had an impact on the unemployment rate among these service members in a way that would justify considering using USERRA as a tool to combat military spouse unemployment.

Type of Service Member	Total Number in U.S.	Unemployment Rate	Civilian Labor Force Participation
Reserve Component (Total Ready Reserve)	1 million ¹⁴	Total Unknown; Army Reserve Rate: 23.8% ¹⁵ *	Unknown
Veteran	18.4 million ¹⁶	2.5% ¹⁷	48.2% ¹⁸

*The Army Reserve unemployment rate likely is counting service members who are students and may not be looking for work/actively in the labor force.

When USERRA became law in 1994, the veteran unemployment rate was between 6-7 percent. Since 1980, overall veteran unemployment has fluctuated between where it is today at 2.5 percent to 11 percent.¹⁹ Since the implementation of USERRA in 1994, veterans were also added to the Work Opportunity Tax Credit (WOTC). The veteran unemployment rate was approximately 10 percent in 2009 when veterans were added to WOTC.²⁰ Veteran unemployment has steadily declined since 2009, reaching the current all-time low of less than 3 percent.

We question whether data supports adding military spouses to Section 4211 of Title 38, which addresses discrimination. Assistant Secretary Rodriguez of Department of Labor Veteran Education and Training Services (DOL VETS) cited “research on the perceptions of military spouses found that more than half believe that their spouse’s military service has hurt their

¹⁴ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

¹⁵ Reserve National Guard Magazine (2022, Nov. 21). *New Army Reserve partnership program helps soldiers find civilian employment*. <https://reservenationalguard.com/civilian-employers/civilian-employment-army-reserve-partnership/#:~:text=%E2%80%9CTraditional%20reserve%20soldiers%20are%20one,Strength%20Management%20Module%2C%20Stubbs%20said>

¹⁶ United States. Department of Labor. Bureau of Labor Statistics. (2023). *Employment Situation of Veterans — 2022* <https://www.bls.gov/news.release/pdf/vet.pdf>.

¹⁷ United States. Department of Labor. Bureau of Labor Statistics. (2023, June 2). *Economic News Release*. <https://www.bls.gov/news.release/empst.t05.htm>

¹⁸ United States. Department of Labor. Bureau of Labor Statistics. (2023, June 2). *Economic News Release*. <https://www.bls.gov/news.release/empst.t05.htm>

¹⁹ Loughran, David S., *Why Is Veteran Unemployment So High?* Santa Monica, CA: RAND Corporation, 2014. https://www.rand.org/pubs/research_reports/RR284.html.

²⁰ United States. Department of Agriculture. (2018). *Unemployment rate for rural veterans at its lowest since before the Great Recession*. <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=90548>

career opportunities.”²¹ We believe more data from both military spouses and employers is needed before we can know if this is a correct assessment of the problem and if USERRA would be the appropriate tool to address such a problem.

SPECIFIC CONCERNS & CONSIDERATIONS

All concerns listed below reference sections found in Title 38 of the U.S. Code.

- **§ 4311 – Discrimination against persons who serve in uniformed service and acts of reprisal prohibited**
 - The current bill language would add all military spouses to this section. This includes military spouses of veterans. This would bring the total number of people added to this specific provision to around 10 million people. We have concerns about the cost of the workload to manage the discrimination claims that would result from this. Additionally, we have questions about whether this specific provision addresses the problem at hand, given the lack of data.
- **§ 4312 - Reemployment rights of persons who serve in uniform service**
 - The bill proposes giving military spouses the right to return to a job within 5 years after leaving the job “necessitated by reason of service.” How would necessity be determined or defined? We are concerned that the requirement to hold a position open for a military spouse following a military-ordered move would be seen as burdensome by employers, potentially making them less likely to hire spouses. We also note that military spouses already have the right to take time off of work for deployment and reintegration specific needs under the Family and Medical Leave Act (FMLA).
- **§ 4313 – Reemployment positions and § 4314 – Reemployment by the federal government**
 - We question how it would be determined that a military spouse would have had continuous employment if it had not been interrupted by their spouse’s service. What aspects of military service would be considered interruptions under this clause? Many spouses cite the stresses of deployment and a lack of child care as a reason to leave their jobs; would those issues make them eligible for reemployment under this provision? Additionally, how would this apply to federal agencies that have locations in various locations around the country or globe?
- **§ 4315 – Reemployment by certain federal agencies**
 - This provision would be very helpful to military spouses who work or would like to work for the federal government. We are happy to see that under this provision the agency head is charged with ensuring “to the maximum extent possible” that military spouses would be able to be reemployed. Adopting this provision would be an important step to helping the federal government reach its goal of becoming an employer of choice for military spouses. That said, we would like further clarification on what would be considered a reason to leave a position requiring reemployment. Would this apply to permanent change of station only?

²¹ U.S. Congress. House Committee on Veterans Affairs Subcommittee on Economic Opportunity. *Hearing: Examining the Future of Workforce Protections for Servicemembers*. (2023, March 9). <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115444>

- **§ 4316 – Rights, benefits, and obligations of persons absent from employment for service in the uniformed service**
 - We have concerns about how the necessity of absence from employment for military service would be determined.
- **4317 – Health plans**
 - We have concerns about this provision. What is the estimated cost to employers? Would that cost make them less likely to want to hire military spouses?
- **4318 – Employee pension benefits plans**
 - We have concerns about how this provision may conflict with state laws relating to pension systems.
- **§ 4319 - Employment and reemployment rights in foreign countries**
 - This provision would hold employers, with entities in foreign countries to the same USERRA provisions as employers who are stateside. While the intent is admirable, there are longstanding Status of Forces Agreements (SOFA) and bilateral work agreement challenges that have prevented employers from being able to hire military spouses who live in a foreign country on military orders. This provision could put employers in a position of legal ambiguity, and it could cause frustration among military spouses who would be caught between two conflicting types of laws governing their employment.

POLICY PROPOSALS

We believe the policy proposals listed below would be prudent steps to take to not only address military spouse unemployment but would also address some of the underlying concerns about the proposal to add military spouses to the provisions of USERRA.

Tracking Military Spouse Unemployment

We need to better understand military spouse unemployment. To track military spouse unemployment, legislation to authorize appropriate data sharing agreements between the Bureau of Labor Statistics, the Department of Health and Human Services' National Directory of New Hires, and the Department of Defense is needed. Additionally, a requirement would be needed to ensure that military spouse unemployment is tracked and reported on a regular basis. Military spouse unemployment will undoubtedly have to be approached differently than veteran unemployment tracking. This will require that departments and agencies work together to find a way to facilitate such tracking.

Additionally, the unemployment rate of military spouses living outside of the continental United States needs to be better understood and better tracked. There may need to be specific provisions to ensure that this demographic of military spouses is represented in the overall military spouse unemployment reporting.

Add Military Spouses as a Target group under the Work Opportunity Tax Credit

The *Military Spouse Hiring Act* has been reintroduced this congress and is building bipartisan support in both the House and the Senate. This bill would add military spouses as a Target Group under the Work Opportunity Tax Credit (WOTC). This policy tool gives employers a tax credit for hiring people from groups experiencing significant employment challenges. It is also an incentivizing tool for employers rather than one that could be viewed as causing potential staffing burdens. The WOTC is a policy tool that has been used for ten other target groups.



Adding military spouses to WOTC also does not cost anything unless the policy is actually working, meaning military spouses are being hired. And if military spouses are being hired and able to maintain employment, the return-on-investment of the tax credit will pay dividends not just for military families, but for the military community as a whole.

CONCLUSION

Thank you for the opportunity to share our thoughts on this legislative proposal to add military spouses to the provisions of USERRA. We sincerely appreciate the subcommittee holding a hearing to discuss this legislation, and we especially appreciate your interest in working to find ways to alleviate the problem of military spouse unemployment. We offer our support and collaboration on any further policy efforts to address this issue.